



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 8 U.K.

#### INVESTIGATIONS

### CHAPTER 2 E+W+N.I.

#### ENGLAND AND WALES AND NORTHERN IRELAND

#### *Code of practice*

#### 377 Code of practice [<sup>F1</sup>of Secretary of State etc.] E+W+N.I.

- (1) The Secretary of State must prepare a code of practice as to the exercise by all of the following of functions they have under this Chapter—
  - (a) [<sup>F2</sup>the Director General of SOCA];
  - (b) [<sup>F3</sup>other members of SOCA's staff];
  - (c) [<sup>F4</sup>in relation to England and Wales,] accredited financial investigators;
  - (d) [<sup>F4</sup>in relation to England and Wales,] constables;
  - (e) customs officers.
  - [<sup>F5</sup>(f) immigration officers.]
- (2) After preparing a draft of the code the Secretary of State—
  - (a) must publish the draft;
  - (b) must consider any representations made to him about the draft;
  - (c) may amend the draft accordingly.
- (3) After the Secretary of State has proceeded under subsection (2) he must lay the code before Parliament.
- (4) When he has done so the Secretary of State may bring the code into operation on such day as he may appoint by order.

*Status: Point in time view as at 25/06/2013.*

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- (5) A person specified in subsection (1)(a) to <sup>F6</sup>[f] must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter.
- (6) If such a person fails to comply with any provision of such a code of practice he is not by reason only of that failure liable in any criminal or civil proceedings.
- (7) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.
- (8) The Secretary of State may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

<sup>F7</sup>(9) .....

#### Textual Amendments

- F1** Words in s. 377 heading inserted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 8 para. 114(2)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F2** Words in s. 377(1)(a) substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 8 para. 114(3)(a)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F3** Words in s. 377(1)(b) substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 8 para. 114(3)(b)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F4** Words in s. 377(1)(c)(d) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 67(2)** (with arts. 28-31)
- F5** S. 377(1)(f) inserted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 21 para. 37(2)** (with [Sch. 21 para. 40](#)); S.I. 2013/1042, art. 4(k)
- F6** Word in s. 377(5) substituted (25.6.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 21 para. 37(3)** (with [Sch. 21 para. 40](#)); S.I. 2013/1042, art. 4(k)
- F7** S. 377(9) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 67(3)** (with arts. 28-31)

#### Commencement Information

- I1** S. 377 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

#### <sup>F8</sup>377ZA Code of practice (Northern Ireland) **E+W+N.I.**

- (1) The Department of Justice in Northern Ireland must prepare a code of practice as to the exercise, in relation to Northern Ireland, by constables and accredited financial investigators of functions they have under this Chapter.
- (2) After preparing a draft of the code the Department of Justice—
  - (a) must publish the draft;
  - (b) must consider any representations made to the Department of Justice about the draft;
  - (c) may amend the draft accordingly.
- (3) After the Department of Justice has proceeded under subsection (2) it must lay the code before the Northern Ireland Assembly.

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- (4) When the Department of Justice has done so it may bring the code into operation on such day as the Department of Justice may appoint by order.
- (5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a code as it applies in relation to the laying of a statutory document under an enactment.
- (6) A constable or accredited financial investigator must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter.
- (7) If a constable or accredited financial investigator fails to comply with any provision of such a code of practice he is not by reason only of that failure liable in any criminal or civil proceedings.
- (8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.
- (9) The Department of Justice may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

#### Textual Amendments

**F8** Ss. 377ZA, 377ZB inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 68** (with arts. 28-31)

### **377ZB Disapplication of PACE codes** **E+W+N.I.**

The following provisions do not apply to an appropriate officer or the relevant authority in the exercise of any function either has under this Chapter—

- (a) section 67(9) of the Police and Criminal Evidence Act 1984 (application of codes of practice under that Act to persons other than police officers);
- (b) Article 66(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (which makes similar provision for Northern Ireland).]

#### Textual Amendments

**F8** Ss. 377ZA, 377ZB inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 68** (with arts. 28-31)

### **[<sup>F9</sup>377A Code of practice of Attorney General or Advocate General for Northern Ireland** **E+W+N.I.**

- (1) The Attorney General must prepare a code of practice as to—
  - (a) the exercise by the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions and the Director of the Serious Fraud Office of functions they have under this Chapter; and

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- (b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a confiscation investigation, of functions he has under this Chapter in relation to England and Wales as the relevant authority.
- (2) The Advocate General for Northern Ireland must prepare a code of practice as to—
- (a) the exercise by the Director of Public Prosecutions for Northern Ireland of functions he has under this Chapter; and
  - (b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a confiscation investigation, of functions he has under this Chapter in relation to Northern Ireland as the relevant authority.
- (3) After preparing a draft of the code the Attorney General or (as the case may be) the Advocate General for Northern Ireland—
- (a) must publish the draft;
  - (b) must consider any representations made to him about the draft;
  - (c) may amend the draft accordingly.
- (4) After the Attorney General or the Advocate General for Northern Ireland has proceeded under subsection (3) he must lay the code before Parliament.
- (5) When the code has been so laid the Attorney General or (as the case may be) the Advocate General for Northern Ireland may bring the code into operation on such day as he may appoint by order.
- (6) A person specified in subsection (1)(a) or (b) or (2)(a) or (b) must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter to which the code relates.
- (7) If such a person fails to comply with any provision of such a code of practice the person is not by reason only of that failure liable in any criminal or civil proceedings.
- (8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.
- (9) The Attorney General or (as the case may be) the Advocate General for Northern Ireland may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.
- (10) In this section references to the Advocate General for Northern Ireland are to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as references to the Attorney General for Northern Ireland.]

#### **Textual Amendments**

- F9** S. 377A inserted (1.3.2008 for specified purposes, 1.4.2008 in so far as not already in force) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 115](#); S.I. 2008/219, art. 3(m); S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

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