
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 the revised code of practice made pursuant to section 377A of the Proceeds of Crime Act 2002 (“the Act”) in connection with the exercise by—

- the Director of Public Prosecutions and the Director of the Serious Fraud Office of functions under Chapter 2 of Part 8 of the Act (“the relevant Directors”); and
- any other person, who is the relevant authority by virtue of section 357(9) of the Act in relation to a confiscation investigation, of functions the person has under Chapter 2 of Part 8 of the Act in relation to England and Wales as the relevant authority (“a specified person”).

Chapter 2 of Part 8 relates to England and Wales and Northern Ireland, however the revised code of practice does not apply in relation to Northern Ireland. In Northern Ireland, the previous version of the code continues to apply.

Part 8 of the Act concerns the investigations permitted under the Act, of which there are five kinds (confiscation investigations, civil recovery investigations, detained cash investigations, money laundering investigations and exploitation proceeds investigations: see section 341 of the Act).

The relevant Directors have various functions under Chapter 2, connected with their roles as:

- appropriate officers who can carry out civil recovery investigations,
- prosecutors who can apply to court for disclosure orders under section 357 of the Act in relation to civil recovery investigations and certain confiscation investigations, and
- persons who may request assistance under section 375A of the Act if they think that there is relevant evidence pertaining to a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation, in a country or territory outside the United Kingdom.

Under section 357(9) of the Act, the Secretary of State can by order specify a person as a prosecutor. A specified person is a relevant authority under section 357 of the Act and is able to apply to court for a disclosure order under that section in relation to a confiscation investigation.

Article 3 of the Order provides that the revised code of practice applies to the exercise of functions on and after 1st June 2015, even if the exercise of a function began before that date.

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.