



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 2

ENGLAND AND WALES AND NORTHERN IRELAND

Code of practice

377 Code of practice [^{F1}of Secretary of State etc.]

(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—

- [^{F2}(a) the Director General of the National Crime Agency;
- (b) other National Crime Agency officers;]
- (c) [^{F3}in relation to England and Wales,] accredited financial investigators;
- (d) [^{F3}in relation to England and Wales,] constables;
- [^{F4}(e) officers of Revenue and Customs;]
- [^{F5}(f) immigration officers.]
- [^{F6}(g) Financial Conduct Authority 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.

[^{F7}(2A) The Secretary of State must also consult the Treasury about the draft in its application to functions that Financial Conduct Authority officers have under this Chapter.]

Status: Point in time view as at 20/07/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Code of practice is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) After the Secretary of State has proceeded under ^{F8}subsection (2)]^{F8}subsections (2) and (2A)] 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.
- (5) A person specified in subsection (1)(a) to ^{F9}(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.

^{F10}(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** S. 377(1)(a)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 143**; [S.I. 2013/1682](#), art. 3(v)
- F3** 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)
- F4** S. 377(1)(e) substituted (17.7.2013) by [Finance Act 2013 \(c. 29\)](#), **Sch. 48 para. 17**
- 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** S. 377(1)(g) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), **Sch. 5 para. 58(2)**; [S.I. 2017/991](#), reg. 2(t)
- F7** S. 377(2A) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), **Sch. 5 para. 58(3)**; [S.I. 2017/991](#), reg. 2(t)
- F8** Words in s. 377(3) substituted (27.4.2017 for specified purposes, 31.10.2017 for E.W. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), **Sch. 5 para. 58(4)**; [S.I. 2017/991](#), reg. 2(t)
- F9** 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)
- F10** 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)

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[^{F11}377Z Code of practice (Northern Ireland)]

- (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.
- (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

F11 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

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).]

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Textual Amendments

F11 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)

[^{F12}377A Code of practice of Attorney General or Advocate General for Northern Ireland

- (1) The Attorney General must prepare a code of practice as to—
 - (a) the exercise by the Director of Public Prosecutions [^{F13}, SFO officers]^{F14}... and the Director of the Serious Fraud Office of functions they have 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 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.

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- (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

- F12** 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)
- F13** Words in s. 377A(1)(a) inserted (27.4.2017 for specified purposes, 31.10.2017 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 24](#); S.I. 2017/991, reg. 2(1)
- F14** Words in s. 377A(1)(a) omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 2 para. 28](#)

Status:

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Changes to legislation:

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