

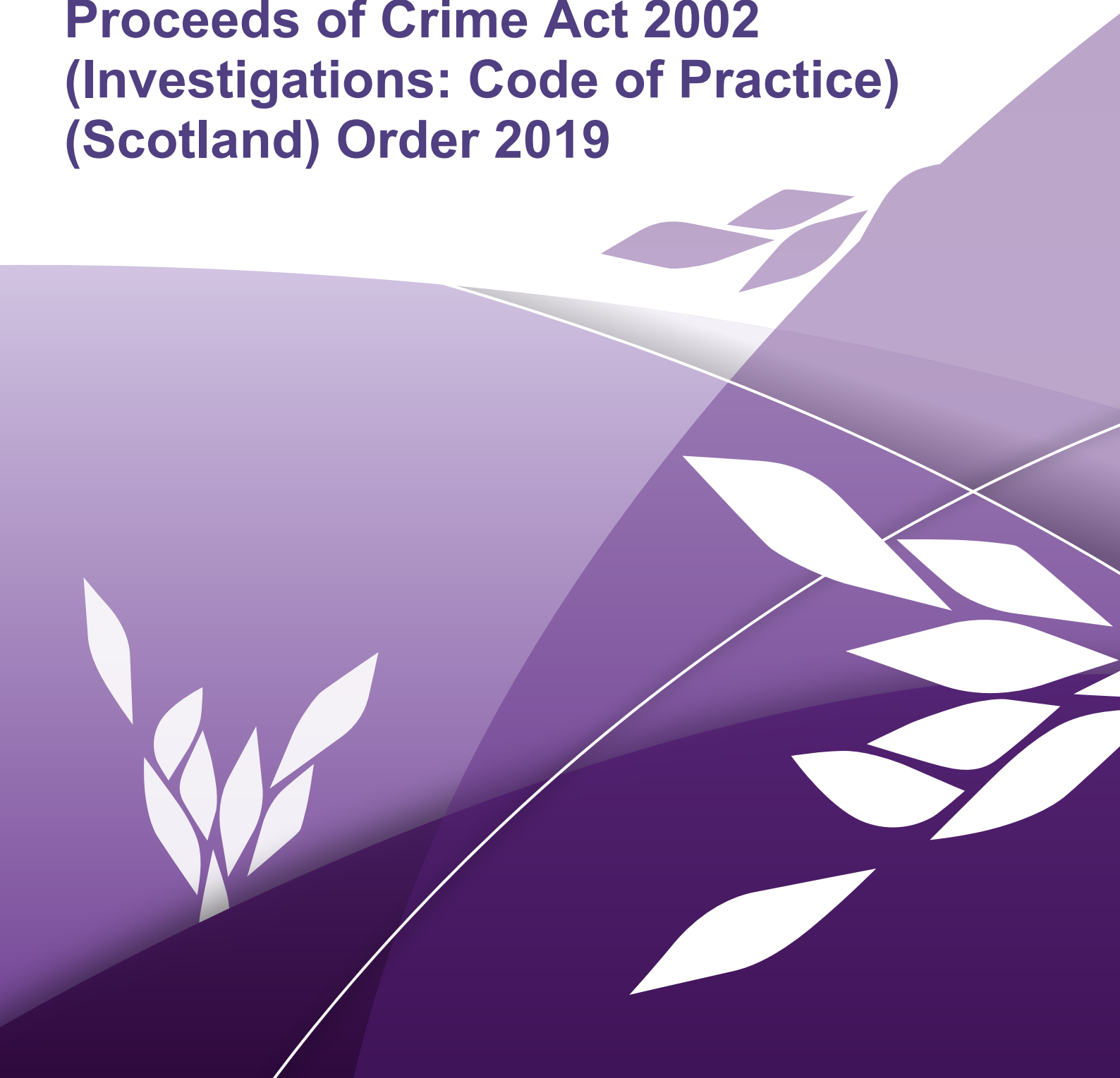


The Scottish Parliament  
Pàrlamaid na h-Alba

Published 11 November 2019  
SP Paper 620  
21st Report, 2019 (Session 5)

## **Justice Committee Comataidh a' Cheartais**

# **Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2019**



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

---

All documents are available on the Scottish  
Parliament website at:  
[http://www.parliament.scot/abouttheparliament/  
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

For information on the Scottish Parliament contact  
Public Information on:  
Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

# Contents

<b>Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2019</b>	<b>1</b>
--	----------

---

# Justice Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Justice, and functions of the Lord Advocate other than as head of the systems of criminal prosecution and investigation of deaths in Scotland.



<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/justice-committee.aspx>



[justicecommittee@parliament.scot](mailto:justicecommittee@parliament.scot)



0131 348 5047

# Committee Membership



**Convener**  
**Margaret Mitchell**  
Scottish Conservative  
and Unionist Party



**Deputy Convener**  
**Rona Mackay**  
Scottish National Party



**John Finnie**  
Scottish Green Party



**Jenny Gilruth**  
Scottish National Party



**James Kelly**  
Scottish Labour



**Liam Kerr**  
Scottish Conservative  
and Unionist Party



**Fulton MacGregor**  
Scottish National Party



**Liam McArthur**  
Scottish Liberal  
Democrats



**Shona Robison**  
Scottish National Party

# Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2019

## Introduction

1. At its meeting on 29 October 2019, the Justice Committee considered the following instrument:
  - [the Proceeds of Crime Act 2002 \(Investigations: Code of Practice\) \(Scotland\) Order 2019 \[draft\]](#)
2. The instrument was laid before the Scottish Parliament on 19 September 2019 and referred to the Justice Committee. The instrument is subject to the affirmative procedure. The Committee is required to report to the Parliament on the instrument by 13 November 2019.
3. The instrument is made under section 410(4) of the Proceeds of Crime Act 2002 (“POCA”). The purpose of the instrument is to bring into force a revised code of practice for proper persons, as defined in section 412 of POCA,<sup>i</sup> to execute investigative orders and warrants. These orders and warrants allow the proper person to require an individual or company to provide information that is of significant value to an investigation, or to search for such information.
4. The draft code of practice can be found [here](#).

## Delegated Powers and Law Reform Committee consideration

5. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on 1 October 2019 and agreed that it did not need to draw it to the attention of the Parliament on any grounds within its remit.

## Justice Committee consideration

6. The Cabinet Secretary for Justice, Humza Yousaf, lodged motion S5M-19219 proposing that the Justice Committee recommends approval of the instrument. At its [meeting on 29 October 2019](#), the Committee took evidence on the instrument from the Cabinet Secretary.
7. The Cabinet Secretary told the Committee that a code of practice has been in operation for 16 years and was last revised in 2009. There has been no material change to the legislation that would require a re-issue of the code, however, the Scottish Government has taken the opportunity to strengthen the code, which makes more comprehensive and enhanced guidance available to proper persons.

---

<sup>i</sup> A “proper person” is defined in section 412 of POCA as: a constable, an officer of Her Majesty’s Revenue and Customs or an immigration officer, in relation to a confiscation or money laundering investigation; or the Scottish Ministers or a person named by them, in relation to a civil recovery, detained cash, detained property or frozen fund investigation.

8. There being no questions from Members, the Cabinet Secretary moved the motion in his name: SM-19219 That the Justice Committee recommends that the Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2019 [draft] be approved.
9. The motion was agreed to without debate or division.
10. The Justice Committee recommends to the Scottish Parliament that it approve the Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2019 [draft].

