



SCOTTISH EXECUTIVE

Justice Department
Criminal Justice Division

St Andrew's House
Regent Road
Edinburgh EH1 3DG

Circular No JD/11/2006

Lord Justice General
Lord Justice Clerk
The Chief Constable
The Principal Clerk of Session and Justiciary
Sheriff's Principal
Sheriff's Association
The Sheriff Clerk
Commissioners of Revenue and Customs
HM Chief Inspector of Constabulary
Director SCDEA
Scottish Police College
The "Appointed Person" (POCA s290)
Dean of Faculty of Advocates
Law Society of Scotland
Director of Judicial Studies in Scotland
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Our ref: CJC/1/7/9

14 July 2006

Dear Sir/Madam

THE PROCEEDS OF CRIME ACT 2002 (RECOVERY OF CASH IN SUMMARY PROCEEDINGS: MINIMUM AMOUNT) ORDER 2006

Summary

1. The cash seizure minimum amount threshold under the Proceeds of Crime Act 2002 is being reduced from £5000 to £1000 with effect from 31 July 2006.

Background

2. Section 289 of the Proceeds of Crime Act 2002 provides a search power to seize cash that is the proceeds of unlawful conduct or intended for use in such conduct. The search (and seizure) powers are not exercisable unless the suspect cash is thought to be not less than the minimum amount set under section 303. The minimum amount was originally set at £10,000, but was reduced to £5000 on 16 March 2004.

3. Under section 303 the Home Secretary has the power to alter by Order the threshold for the minimum amount after consultation with the Scottish Ministers. Following an approach from the Home Office, Scottish Ministers have agreed to a proposal to reduce the minimum recoverable amount of cash to £1,000.



4. Under section 290 of the Act, if a customs officer or constable is conducting a search without prior judicial approval which does not result in the seizure of cash above the minimum amount (or which results in the detention of cash for less than 48 hours) then he or she must make a report to the “appointed person”.

Details of Order

5. The Proceeds of Crime Act 2002 (Recovery of Cash in Summary Proceedings: Minimum Amount) Order 2006 was laid on 4 July 2006 in the Westminster Parliament setting the minimum amount at £1,000. This Order will come into effect on 31 July 2006. A copy of the Order SI No 1699 2006 will be available shortly from www.opsi.gov.uk

Code of Practice

6. A Code of Practice in connection with the exercise by constables in Scotland of the search powers was made in December 2002 by Scottish Ministers under section 293 of the Act. A copy of the Code was attached to circular JD/11/2002. Paragraph 8 of the Code states that the minimum amount can be amended by an order and that constables should be made aware of any such order made. Accordingly we ask you to make the relevant people aware that the minimum amount is changing to £1,000.

7. A copy of this circular should be appended to each copy of the Code, which should be available at all police stations and ports where the powers are, or are likely to be, used. In due course a revised Code will be prepared to reflect this and any further changes.

8. If you have any queries about this circular please contact me at the above address.

Yours sincerely

GEORGE DICKSON