

**EXPLANATORY MEMORANDUM TO
THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODES OF PRACTICE)
(REVISIONS TO CODE A) ORDER 2008**

2008 No. 2638

1. This explanatory memorandum has been prepared by Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Order brings into force on 27 October 2008 a change to Code of Practice A (Code A) under the Police and Criminal Evidence Act 1984 (PACE) which enables police officers operating from certain specified locations, and exercising their powers in their force areas, to provide a receipt rather than a full record when they undertake an encounter in accordance with paragraphs 4.11 – 4.20 of Code A. The amended part of Code A which has been laid before Parliament together with this Order will amend that part of the existing Code, which has been in operation since 1 February 2008.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The instrument is made under section 67(5) of PACE and is being laid before Parliament pursuant to section 67(7A) of that Act.

4.2 During the course of debate on what became section 11 of the Criminal Justice Act 2003, Baroness Scotland of Ashtal QC, Minister of State at the Home Office, undertook to refer proposed revisions to the Codes of Practice to the Home Affairs Select Committee for consideration of the appropriate Parliamentary process to implement the revisions and be bound by that recommendation (Lords Hansard 7 July 2003: Cols 37 & 38). The revisions which this instrument brings into force were duly referred to the Home Affairs Select Committee which recommended that the instrument bringing the revisions into force should be laid before Parliament pursuant to section 67(7A) of PACE.

5. Territorial Extent and Application

5.1 This instrument applies to specified police forces in the constabulary areas of Leicestershire, Staffordshire, Surrey, West Midlands, Essex, Greater Manchester, Lancashire, Merseyside, Nottinghamshire, South Wales, Thames Valley and West Yorkshire. The provisions set out in paragraph 2.1 above will apply from the date of commencement of this Order subject to any authorised extension.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Sections 60, 60A and 66 (as amended) of PACE provide for the Secretary of State to issue Codes of Practice governing certain key areas of police procedure. Code A: Stop and Search, governs the exercise of police powers in respect of stopping and searching persons. The current version of this Code was brought into force on 1 February 2008 by S.I. 2008/167.

7.2 Code A requires that a full record of all stops and accounts, also known as encounters, is made at the time of the incident. This is to ensure accountability and aid supervision. As a general rule, a copy of that full record is to be given to the person immediately following the stop.

7.3 Code A as amended by this Order will allow a receipt to be provided immediately in lieu of a written record. The ability to do so is limited to officers operating from in the following force areas: Leicestershire , Staffordshire , Surrey West Midlands, Essex, Greater Manchester, Lancashire, Merseyside, Nottinghamshire, South Wales, Thames Valley and West Yorkshire. The pilot scheme evaluation will consider the impact on police accountability and police bureaucracy.

7.4 Code A ensures that effective safeguards and protections remain in place for the individual. When giving such a receipt, the officer must notify the person that the full written record is available and how it can be accessed.

7.5 Code A as amended will require that the only recording requirement in the pilot areas for stop and account is the self-defined ethnic background of the person. If a person refuses to give that information, the officers will record their own perception in accordance with Code A Note for Guidance 18. A form will not be required to be completed.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact on the public sector is negligible. It is not expected to have an additional impact on resources over and above that which is already imposed by the current versions of the Codes of Practice. The evaluation is anticipated to identify savings in police time.

9. Contact

Alan Brown at the Home Office Tel: 020 7035 0877 or e-mail:
Alan.Brown@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.