

**EXPLANATORY MEMORANDUM TO
THE POLICE AND CRIMINAL EVIDENCE (1989 ORDER) (CODES OF
PRACTICE) (TEMPORARY MODIFICATION TO CODE A) ORDER
(NORTHERN IRELAND) 2012**

S.R. 2012 No. 226

1. General

1.1 This Explanatory Memorandum has been prepared by the Department of Justice to accompany the above Statutory Rule, which is laid before the Northern Ireland Assembly.

2. Description

2.1 The Police and Criminal Evidence (Northern Ireland) Order 1989 requires the Department of Justice to issue codes of practice in relation to the exercise by police officers of their statutory powers.

2.2 The Order brings into force on 30th July 2012 modifications to Code of Practice A (“Code A”) which regulates the exercise by police officers of statutory powers of stop and search in Northern Ireland. It renews similar modifications to Code A made by the Police and Criminal Evidence (1989 Order)(Codes of Practice) (Temporary Modification to Code A) Order (Northern Ireland) 2010 (SR 2010/107) which expires on 30 July 2012.

2.3 The modifications to Code A contained within the Schedule of the Order will make it possible for police officers using mobile hand held technology to record the details of stop and searches electronically. The revision of Section 4 of Code A (recording requirements) will enable police officers in Northern Ireland to provide a receipt rather than a full record when they undertake a stop and search. The receipt will contain a unique reference number and advice on how and where to obtain a full copy of the record of the search.

2.4 The order will remain in force until such times as the temporary modifications outlined within the Schedule to the order can be incorporated into a formal revision of PACE Code A.

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

3.1 None.

4. Legislative Background

4.1 This Order is made under Article 66(6A) of the Police and Criminal Evidence (Northern Ireland) Order 1989 and is being laid before the Assembly pursuant to Article 89 of that Order.

5. Territorial Extent and Application

5.1 The Order applies to police officers in exercise of their powers in Northern Ireland.

6. European Convention on Human Rights

6.1 In the view of the Department the provisions of the Order are compatible with the Convention on Human Rights.

7. Policy Background

7.1 Articles 60, 60A and 65 (as amended) of the Police and Criminal Evidence (Northern Ireland) Order 1989 provide for the Department of Justice to issue Codes of Practice governing certain aspects of police powers and procedures in Northern Ireland. Code A governs the exercise of powers by police officers in respect of stop and search. The current version of this Code was brought into force on 1 March 2007 by S.R. 2007/58.

7.2 Code A requires that a full written record of a stop and search is made at the time unless it is not practicable to do so. As a general rule, a copy of the record is given to the person immediately following the search.

7.3 The modifications to Code A will allow officers using hand held mobile technology to record stop and search details electronically and to issue a receipt at the point of contact in place of a record. The receipt will provide the person searched with details on how and where they can obtain a copy of the search should they so wish.

7.4 The use of mobile technology will not affect the data recording requirements imposed by Code A. This will ensure that information on stop and searches across Northern Ireland will continue to be available for monitoring and supervision purposes.

8. Impact

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

8.2 The impact on the public sector is negligible and is not expected to have an additional impact on resources over and above that which is already imposed by the current version of the Code of Practice.

9. Contact

9.1 Gary Dodds at the Department of Justice Tel: 02890 528375 or e-mail: Gary.Dodds@dojni.x.gsi.gov.uk can answer any queries.