

**EXPLANATORY MEMORANDUM TO THE
POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODES OF PRACTICE)
(REVISIONS TO CODE C) ORDER 2005**

2005 No. 602

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

2. Description

2.1 This Order amends Annex I to the Police and Criminal Evidence Act 1984 Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers (Code C) (as set out in the Codes of Practice A-F August 2004 edition) to include three additional police areas where provisions under section 63B of the Police and Criminal Evidence Act 1984 (PACE) for testing adult persons in police detention for the presence of specified Class A drugs are to be implemented from 1st April 2005 and where the relevant PACE Code provisions in section 17 of Code C will apply. The three police areas are Gwent, Northamptonshire and South Wales.

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

3.1 None

4. Legislative Background

4.1 Section 67 of PACE (as amended by section 11 of the Criminal Justice Act 2003) provides for revisions to the PACE Codes of Practice to be brought into force (following a targeted consultation) by order, either under the draft affirmative procedure (under section 67(7)) or by the simple laying of an order (under section 67(7A)).

4.2 This Instrument is being laid before Parliament pursuant to section 67(7A), as recommended by the Home Affairs Select Committee. The revisions being brought into force were referred to HASC for consideration of the appropriate Parliamentary process in accordance with the undertaking given in this respect by Baroness Scotland of Asthal QC, Minister of State at the Home Office (Lords Hansard 7th July 2003: Cols 37 and 38).

4.3 Section 66(2) of PACE provides that PACE Codes shall (in particular) include provision in connection with the exercise by police officers of powers under section 63B to request (in certain circumstances) persons who have been charged and who are in police detention to provide a sample for the purpose of testing for the presence of specified Class A drugs. The relevant provisions are set out in section 17 of Code C. These relate to testing persons aged 18

and over or to testing those aged 14 and over, where the relevant provisions have been brought into force.

4.4 The police areas in which the provisions have been commenced are listed in Annexes I (testing of adults) and J (testing of persons under 18) to Code C. As indicated in those Annexes, testing is taking place within selected police stations within those police areas. The new powers in respect of persons under the age of 18 can only be exercised where a separate notification to the Chief Officer of Police concerned has been given by the Secretary of State, as indicated in Annex J to Code C.

4.5 As of 1st April 2005, the drug testing provisions in respect of adults only are being extended to the three police areas of Gwent, Northamptonshire and South Wales, by virtue of the Criminal Justice and Court Services Act 2000 (Commencement No.14) Order 2005. Annex I to PACE Code C is therefore being amended to include the three additional police areas with effect from that date and section 17 of PACE Code C (in so far as it relates to testing persons aged 18 and over) will apply to those police areas.

5. Extent

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

Not applicable

7. Policy background

7.1 Sections 60, 60A and 66 (as amended) of the Police and Criminal Evidence Act 1984 provide for the Secretary of State to issue Codes of Practice governing certain key areas of police procedure. The purpose of **Code C: Detention, Treatment and Questioning of Persons by Police Officers**, is to ensure that all persons suspected of being involved in crime, and others who are in police custody, are dealt with fairly and properly in accordance with the law.

7.2. Section 17 of Code C (*Testing persons for the presence of specified Class A drugs*) covers the relevant drug testing provisions introduced into PACE by section 57 of the Criminal Justice and Court Services Act 2000 in respect of testing persons aged 18 and over, and subsequently amended by section 5 of the Criminal Justice Act 2003 to provide for the testing of persons aged under 18. Annexes I and J to Code C list the police areas in which the relevant provisions under section 63B of PACE have been brought into force.

7.3 As part of the expansion of the Drug Interventions Programme to further high crime areas in England and Wales, the drug testing provisions in respect of adults are being extended to include three more police areas. Adding these to Annex I to Code C will reflect this extension.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

8.2 The Instrument is not expected to have any significant impact on public sector resources.

9. Contact

Marilyn Blomfield at the Home Office Tel: 020 7035 0537 or e-mail: marilyn.blomfield@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.

Codes of practice – Code C Detention, treatment and questioning of persons by police officers

**ANNEX I – POLICE AREAS WHERE THE POWER TO TEST PERSONS
AGED 18 AND
OVER FOR SPECIFIED CLASS A DRUGS UNDER SECTION 63B OF PACE
HAS
BEEN BROUGHT INTO FORCE***

Avon and Somerset

Bedfordshire

Cambridgeshire

Cleveland

Devon and Cornwall

Greater Manchester

[Gwent](#)

Humberside

Lancashire

Leicestershire

Merseyside

Metropolitan Police District

[Northamptonshire](#)

North Wales

Northumbria

Nottinghamshire

[South Wales](#)

South Yorkshire

Staffordshire

Thames Valley

West Midlands

West Yorkshire

* The provisions are being implemented in selected police stations within these police areas.