

2012 No. 226

POLICE

The Police and Criminal Evidence (1989 Order) (Codes of Practice) (Temporary Modification to Code A) Order (Northern Ireland) 2012

Made - - - -

25th May 2012

Coming into operation -

30th July 2012

The Department of Justice makes the following Order in exercise of the powers conferred by Article 66(6A) of the Police and Criminal Evidence (Northern Ireland) Order 1989^(a).

Citation, commencement and interpretation

1. This Order may be cited as the Police and Criminal Evidence (1989 Order) (Codes of Practice) (Temporary Modification to Code A) Order (Northern Ireland) 2012, and shall come into operation on 30th July 2012.

2. In this Order “Code A” means the Code of Practice for the exercise by police of statutory powers of stop and search issued under Article 65 of the Police and Criminal Evidence (Northern Ireland) Order 1989.

Code of Practice

3.—(1) Code A is to be treated as having effect in accordance with the modifications set out in the Schedule to this Order.

(2) The modification to Code A set out in the Schedule to this Order shall have effect for the period of two years beginning with the date on which this Order comes into operation.

Sealed with the Official Seal of the Department of Justice on 25th May 2012

(L.S.)

David Ford
Minister of Justice

(a) S.I. 1989/1341 (N.I. 12). Article 66(6A) was inserted by section 43 of the Police (Northern Ireland) Act 2003 and amended by Article 4(3) of and paragraph 13(5) of Schedule 2 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976).

SCHEDULE 1

Section 4 (Recording requirements) of Code A is amended as follows—

1. For paragraph 4.2 substitute—

“4.2. Except in the circumstances set out in paragraph 4.2A, a copy of a record made at the time must be given immediately to the person who has been searched. In all cases the officer must ask for the name, address and date of birth of the person searched, but there is no obligation on a person to provide these details and no power of detention if the person is unwilling to do so.

4.2A. A receipt of the record rather than a copy of the record may be given immediately to the person who has been searched provided it is produced by electronic means and states how the full record can be accessed. When providing such a receipt, the officer must inform the person that the receipt is in place of a full written record, that the full record is available in electronic or in hard copy format and how the full record can be accessed. The person may request a copy in either format but not both. The full record must comply with paragraph 4.3 of this Code.”

2. After paragraph 4.10 insert—

“4.10A. When an officer makes a record of the stop electronically and if the officer is able to provide a copy of the record at the time of the stop and search, he or she must do so. This means that if the officer has or has access to a portable printer for use with the electronic recording equipment, then a copy of the record must be provided.

4.10B. If the officer is carrying a paper version of the form, then a record must be provided at the time of the incident (See Note 19). An officer would not be required to produce anything other than a receipt if neither of these two scenarios (4.10A and 4.10B) are met, nor would they be required to provide a full record at the scene in the event that he or she was called to respond to an incident of higher priority. Where the person has been searched, the officer must explain how the person can obtain a full copy of the record of the search and give the person a receipt which contains:

- (i) a unique reference number and guidance on how to obtain a full copy of the search;
- (ii) the name of the officer who carried out the search (unless paragraph 4.4 applies); and
- (iii) the power used to stop and search them. [See Note 18].”

3. For Note for Guidance 18 substitute—

“18. In situations where it is not practicable to provide a written record or a full copy of an electronic record or an electronic receipt (in accordance with paragraph 4.2A above) of the stop and search at that time, the officer should consider providing the person with details of the station to which the person may attend for a record. This may take the form of a simple business card adding the date of the stop and search.”

4. After Note for Guidance 18 add—

“19. Under 4.10B, an officer with an electronic recording device may be carrying a paper version of the record for use as a contingency in the event of a technical breakdown. In these circumstances, where the office is able to make an electronic record, there would be no requirement to provide a written record.”

EXPLANATORY NOTE

(This note is not part of the Order)

The Police and Criminal Evidence (Northern Ireland) Order 1989 requires the Department of Justice to issue codes of practice in relation to the exercise of police powers. Code of Practice A governs the exercise by police officers of the statutory powers to search a person or vehicle without first making an arrest.

This Order requires Code A to be applied with the modifications set out in the Schedule to this Order. These modifications to Section 4 of Code A (recording requirements) and the Notes for Guidance provide police officers in Northern Ireland exercising their powers of stop and search with the option of recording stop and search details electronically and issuing a receipt in place of a full record of the search at the point of contact. The receipt will contain details on how a full record can be made available.

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