



The Immigration (PACE Codes of Practice) Direction 2013

Made: 15 July 2013

Coming into Operation: 15 July 2013

The Secretary of State, in exercise of the powers conferred by section 145 of the Immigration and Asylum Act 1999¹ hereby makes the following Direction:

1. This Direction may be cited as the Immigration (PACE Codes of Practice Direction) 2013.
2. In this Direction:
 - a. “the 1971 Act” means the Immigration Act 1971²;
 - b. “the 1999 Act” means the Immigration and Asylum Act 1999;
 - c. “the 2004 Act” means the Asylum and Immigration (Treatment of Claimants etc.) Act 2004³;
 - d. “the 2007 Act” means the UK Borders Act 2007⁴;
 - e. “PACE” means the Police and Criminal Evidence Act 1984⁵; and
 - f. “the PACE Code(s) of Practice” means any code of practice issued under sections 60, 60A or 66 of PACE.
3. This Direction does not apply in Scotland or Northern Ireland.
4. Nothing in this Direction affects the operation of section 67(9) of PACE.
5. Subject to paragraphs 6 and 7 and the modifications set out in Schedule 2, an immigration officer exercising a power that is specified in Column 1 of Schedule 1 of this Direction, must have regard to any provision of the corresponding PACE Code(s) of Practice that is specified in Column 2 of that Schedule.

¹ 1999 c.33

² 1971 c.77

³ 2004 c.19

⁴ 2007 c.30

⁵ 1984 c.60

6. The specified provisions of the PACE Code(s) of Practice in Schedule 1 shall apply to immigration officers exercising the corresponding specified power as if the words and phrases in Column 1 of Part 1 of Schedule 2 include reference to the words and phrases in Column 2 of that Part.
7. Where in the specified provisions of the PACE Code(s) of Practice, any thing is or is not to be done by a constable, police force or a member of police staff, that thing shall also be done or not done by an immigration officer.
8. The Immigration (PACE Codes of Practice) Direction 2000 and the Immigration (PACE Codes of Practice No 2 and Amendment) Direction 2000 are revoked, but only insofar as they relate to immigration officers exercising specified powers in England and Wales.
9. Nothing in this Direction affects the operation of the Immigration (PACE Codes of Practice) Direction 2000 and the Immigration (PACE Codes of Practice No 2 and Amendment) Direction 2000, insofar as they require immigration officers exercising powers in Northern Ireland to have regard to specified provisions of a code of practice issued under the Criminal Evidence (Northern Ireland) Order 1989⁶.

Mark Harper
Minister for Immigration
Home Office
15 July 2013

⁶ SI 1989/1341

SCHEDULE 1

Column 1 (powers exercised under the following provisions)	Column 2 (code provisions for England and Wales)
<p>Section 28A of the 1971 Act (arrest without warrant)</p> <p>Section 28AA of the 1971 Act (arrest with warrant)</p> <p>Paragraph 24 of Schedule 2 to the 1971 Act (arrest for breach of bail)</p> <p>Paragraph 33 of Schedule 2 to the 1971 Act (arrest for breach of bail)</p> <p>Paragraph 7(1) of Schedule 3 to the 1971 Act (arrest for breach of court restrictions pending deportation)</p> <p>Section 109A of the 1999 Act (arrest for section 105 or 106 offence)</p> <p>Section 142(3) of the 1999 Act (arrest for failing to attend for fingerprinting)</p> <p>Section 2(10) of the 2004 Act (arrest without warrant for an offence under 2(1) or 2(2) - failure to produce a passport or travel document)</p> <p>Section 14(1) of the 2004 Act (arrest without warrant for offences listed in 14(2))</p> <p>Section 35(5) of the 2004 Act (arrest without warrant for an offence under 35(3) - failure to co-operate with documentation process for removal or deportation)</p> <p>Section 23(1) of the 2007 Act (arrest without warrant for an offence under section 22(1) – assaulting an immigration officer)</p>	<p>Code C – 2.1A, 2.6, 2.6A, 2.7; 6.4; 10.1-10.7, 10.9</p> <p>Code G – 1.1-1.4; 2.3A; 3; 4</p>

Paragraph 17(1) of Schedule 2 to the 1971 Act (arrest without warrant)	Code C – 2.1A, 2.1, 2.6, 2.6A, 2.7 Code G - 1.2, 1.3, 3.3, 4 (not 4.5)
Section 28B of the 1971 Act (search and arrest by warrant) Paragraph 17(2)(a) of Schedule 2 to the 1971 Act (warrant to enter premises for the purpose of arresting person liable to detention) Section 125 of the 1999 Act (entry to accommodation provided under section 95 or 98 for a supported person by warrant) Section 45 of the 2007 Act (search for evidence of nationality by warrant)	Code B – 1; 2 (not 2.4, 2.7, 2.11-2.13); 3 (not 3.4, 3.7); 5; 6 (not 6.3, 6.3B, 6.14, 6.15); 8; 9
Section 28D of the 1971 Act (entry and search of premises by warrant) Section 28FB of the 1971 Act (searching business premises with a warrant)	Code B – 1; 2 (not 2.4, 2.7, 2.11-2.13); 3 (not 3.4, 3.7); 5; 6 (not 6.3B, 6.14, 6.15); 7 (not 7.14); 8; 9
Section 28C of the 1971 Act (search and arrest without a warrant) Section 28CA of the 1971 Act (search and entry of business premises without a warrant)	Code B – 1; 2 (not 2.4, 2.7, 2.11-2.13); 5; 6 (not 6.1, 6.3, 6.3A, 6.3B, 6.14, 6.15); 8; 9
Section 28E of the 1971 Act (entry and search of premises following arrest) Section 28F of the 1971 Act (entry and search of premises following arrest under sections 25, 25A & 25B) Section 44 of the 2007 Act (search for evidence of nationality)	Code B – 1; 2 (not 2.4, 2.7, 2.11-2.13); 5; 6 (not 6.1, 6.3A, 6.3B, 6.14, 6.15); 7 (not 7.14); 8 (not 8.2, 8.3); 9
Section 28FA of the 1971 Act (searching for personnel records without a warrant)	Code B – 1; 2 (not 2.4, 2.7, 2.11-2.13); 5; 6 (not 6.1, 6.3A, 6.3B, 6.4, 6.6, 6.13-6.15); 7 (not 7.14); 8 (not 8.2, 8.3); 9

Paragraph 25A of Schedule 2 to the 1971 Act (entry and search of premises)	Code B – 1; 2 (not 2.3-2.5, 2.7, 2.11-2.13); 5; 6 (not 6.1, 6.3A, 6.3B, 6.14, 6.15); 7 (not 7.14); 8 (not 8.2, 8.3); 9
Section 28G of the 1971 Act (searching arrested persons) Paragraph 25B of Schedule 2 to the 1971 Act (searching persons arrested by immigration officers)	Code A – 1.1, 1.2, 1.5 2.2-2.5 2.9, 2.10, 3.1, 3.2, 3.4-3.7, 3.9, 3.11; Annex F Code B – 7 (not 7.14) Code C – 10.1(c); Annex A Part B; Annex E para 12; Annex L
Section 28H of the 1971 Act (searching persons in police custody) Paragraph 25C of Schedule 2 to the 1971 Act (searching persons in police custody)	Code A – 3.1, 3.2 Code B – 7 (not 7.14) Code C – 1 (not 1.11-1.17), 4; Annex A Part B; Annex E para 12; Annex L
Paragraph 18(2) of Schedule 2 to the 1971 Act Section 141 of the 1999 Act (fingerprinting) Section 142(4)(b) of the 1999 Act (fingerprinting) Section 35(2)(c) of the 2004 Act (to provide fingerprints etc. for documentation purposes) Sections 5-15 of the 2007 Act (BIDS) Immigration (Biometric Registrations) Regulations 2008 (taking fingerprints and or photograph for the issue of a BID)	Code D – 4.10
Section 46 of the 2007 Act (seizure of nationality documents)	Code B – 7.16, 7.17.
Section 8(1) PACE	Code B – All provisions (not 2.11-2.13, 3.4, 3.7, 4, 6.14. 6.15 and 10)
Paragraph 12, Schedule 1 PACE	Code B – All provisions (not 2.11-2.13, 3.4(b), 4 and 10).

Section 17(1)(a)(i) PACE	Code B – All provisions (not 2.4, 2.11-2.13, 3, 4.2, 4.3, 6.1, 6.3A, 6.3B, 6.14, 6.15, 7 and 10).
Section 18 PACE	Code B – All provisions (not 2.4, 2.11-2.13, 3, 4.1, 4.2, 6.1, 6.3A, 6.3B, 6.14, 6.15, 7 and 10).
Section 24(1) to (3) PACE	Code C – 2.1A, 2.6, 2.7; 6.4; 10.1-10.7, 10.9 Code G – All provisions
Section 19 PACE	Code B – 7
Section 32(1) and (2) PACE	Code A – 1.1, 1.2, 1.5, 2.2-2.5 2.9, 2.10, 3.1, 3.2, 3.4-3.7, 3.9, 3.11; Annex F Code B – 1; 2 (not 2.4, 2.7, 2.11-2.13); 5; 6 (not 6.1, 6.3A, 6.3B, 6.14, 6.15); 7; 8 (not 8.2, 8.3); 9 Code C – 1.0, 1.4, 1.6, 1.7, 10.1(c); Annex A Part B; Annex E para 12, Annex L
Interview under caution to establish an offence or breach	Code C – 1 (not 1.1A – 1.3, 1.9, 1.11, 1.13 – 1.17); 2.6, 2.6A; 6.1, 6.4, 6.6-6.17; 10 (not 10(c), 10.11A); 11; 12; 13; 16 (not 16.1A, 16.1B, 16.2, 16.3, 16.6, 16.10); Annex B, C, D and G Code E – All provisions (not 1.6(a), 1.6(b), 1.8, 1.9, 3.2) Code F - All provisions (not 1.6(a), 1.6(b), 3.2)

SCHEDULE 2

Part 1

Column 1	Column 2
Police/police force	Immigration Enforcement
Police officer/constable/police staff	Immigration Officer
Inspector	Chief Immigration Officer

Part 2

Code Provision (England and Wales)	Modification
Code A	<p>All references to 'stop and search' or to a person being 'stopped' are to be construed as including a reference to an arrested person being searched.</p> <p>Nothing in the application of this Code shall entitle an immigration officer to conduct an intimate search of a person.</p> <p>Where reference is made to 'suspicion' also read 'belief'.</p>
2.2, 2.3, 2.4, 2.5, 2.9, 2.10	
Code B	
1.1A	<p>At the end, insert the further bullet points:</p> <ul style="list-style-type: none"> • nationality documents, as defined by section 44(5) of the UK Borders Act 2007 • relevant documents, as defined by paragraph 25A(9) of Schedule 2 to the Immigration Act 1971
2.3	<p>After sub-paragraph (d) insert '(e) under the specified powers of search in the Immigration (PACE Codes of Practice) Direction 2013'</p>
4.1	<p>After 'section 17' insert 'and section 28C of the Immigration Act 1971.'</p>
6.1	<p>After 'three calendar months' insert '(or one calendar month for a warrant issued under the Immigration Acts)'</p>
7.1(b)	<p>Substitute with 'covered by the powers of search and seizure specified in the Immigration (PACE Codes of Practice) Direction 2013'</p>

7.5	Delete 'An officer must have regard to their statutory obligation to retain an original document or other article only when a photograph or copy is not sufficient.'
7.15	Delete the reference to paragraph 7.14
Code C	All references to 'police station(s)' shall be taken to include a reference to 'immigration office(s)'
6.6(b)(i), 6.10, 6.11, 11.18	Where reference is made to an 'officer of superintendent rank' also read 'immigration inspector or equivalent grade (only when the interview is being carried out elsewhere than at a police station)'
13.1	Where reference is made to a 'chief officer' also read 'immigration inspector or equivalent grade'
Code E	Where reference is made to 'police station(s)', this shall be taken to include a reference to 'immigration office(s)'.
3.1	After sub paragraph (c) insert '(d) with a person cautioned under Code C, section 10 in respect of any suspected immigration offence or breach'.
3.3	Where reference is made to 'custody officer' also read 'chief immigration officer'.
4.18	Where reference is made to 'custody officer' also read 'chief immigration officer'.
Code G	
1.4	After the reference to section 24 of PACE insert 'and the specified powers of arrest in the Immigration (PACE Codes of Practice) Direction 2013'.
2.3A	Where reference is made to 'suspicion' also read 'belief'
3.4	After sub paragraph (b) insert '(c) the arrest is under paragraph 17(1) of Schedule 2 to the Immigration Act 1971'.
4.1	After 'the nature and circumstances of the offence leading to the arrest' insert 'why the person is liable to be detained

	under paragraph 16 of Schedule 2 to the Immigration Act 1971’.
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	After ‘the reason or reasons why the arrest was necessary’ insert ‘only if arrested under section 24 of PACE’
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