



HOME OFFICE

The Immigration (PACE Codes of Practice No 2 and amendment) Direction 2000

Made: 19 November 2000

Coming into Operation: 20 November 2000

The Secretary of State, in exercise of the powers conferred upon him by Section 145 of the Immigration and Asylum Act 1999^(a) hereby makes the following Direction:-

1. This Direction may be cited as the Immigration (PACE Codes of Practice No 2 and amendment) Direction 2000 and shall come into operation on the day after the day on which it is made.
2. In this Direction, "the 1971 Act" means the Immigration Act 1971^(b).
3. In this Direction, "the 1999 Act" means the Immigration and Asylum Act 1999
4. This Direction does not apply in Scotland.
5. Nothing in this Direction affects the operation of Section 67(9) of the Police and Criminal Evidence Act 1984^(c) or paragraph 66(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989^(d).
6. Subject to paragraph 7, an immigration officer exercising a power which is specified in column 1 of Schedule 1 to this Direction must have regard to any provisions of a code which are specified in relation to that power:
(a) where the power is exercised in England and Wales in column 2 of that Schedule; or
(b) where the power is exercised in Northern Ireland in column 3 of that Schedule.
7. Any provision of a code specified in Schedule 1 to this Direction shall have effect for the purposes of section 145 of the 1999 Act subject to any modifications specified in relation to that provision in Schedule 2 to this Direction.
8. In Schedule 2 to the Immigration (PACE Codes of Practice) Direction 2000, there is inserted the following further modification to Annex E of Code D –

"In 11 where reference is made to 'police' also read 'Immigration Service'.

Minister of State
Home Office
November 2000

- (a) 1999 c.33.
- (b) 1971 c.77.
- (c) 1984 c.60.
- (d) SI 1989/1341

Schedule 1

Column 1	Column 2	Column 3
(powers exercised under the following provisions)	(code provisions for England and Wales)	(code provisions for Northern Ireland)
Paragraph 18 of Schedule 2 to the 1971 Act	Code D: 3.1, 3.2. 3.2A, 3.4, 3.5, 3.6, 3.7, 3.8	Code D: 3.1, 3.2. 3.2A, 3.3, 3.4, 3.5, 3.6
Section 141 of the 1999 Act (fingerprinting)	Code D: 3.1, 3.2. 3.2A, 3.6, 3.7, 3.8	Code D: 3.1, 3.2. 3.2A, 3.3, 3.5, 3.6
Section 142 of the 1999 Act (attendance for fingerprinting)	Code C: 8; 9	Code C: 8; 9
Section 143 of the 1999 Act (destruction of fingerprints)	Code D: 3.4, 3.5, 3.6, 3.7	Code D: 3.4, 3.5, 3.6

Schedule 2

Code Provision (England and Wales)	Modification
Code D 3.1	Delete 'if he is at a police station' and 'he must be told that he may witness their destruction if he asks to do so within

<p>3.2</p>	<p>five days of being cleared or informed that he will not be prosecuted.'</p> <p>For 'if paragraph 3.4 applies' substitute 'in accordance with paragraph 3.4'.</p> <p>Delete from 'over the age of ten years' to 'investigation of the offence or since conviction.'</p> <p>After 'any person' insert 'are provided by paragraph 18 of Schedule 2 to the Immigration Act 1971 and section 141 of the Immigration and Asylum Act 1999. These provide that fingerprints may be taken without consent where:</p> <ul style="list-style-type: none"> (a) It is reasonably necessary for the purpose of identifying a person who is detained under paragraph 16 of Schedule 2 to the Immigration Act 1971; (b) A person has failed to produce on arrival a valid passport with photograph or some other document satisfactorily establishing his identity and nationality and an immigration officer does not consider that he has a reasonable excuse for the failure; (c) A person has been refused entry to the United Kingdom but has been temporarily admitted and an immigration officer reasonably suspects that he might break a condition imposed on him relating to residence or reporting to a police or immigration officer and this decision has been confirmed by a chief immigration officer; (d) Directions to remove a person (as an illegal entrant, a person liable to removal under section 10 of the Immigration and Asylum Act 1999, or a person who is the subject of a deportation order) from the United Kingdom have been given; (e) A person has been arrested under UK immigration laws (under paragraph 17 of Schedule 2 to the Immigration Act 1971); (f) A person has made a claim for asylum or a claim under Article 3 of the European Convention on Human Rights; or (g) A person is a dependant of someone who falls into one of the categories (b) to (f) above'
<p>3.4</p>	<p>Delete from 'as soon as practicable' to the end.</p> <p>After 'must be destroyed' insert:</p>

	<p>'(a) in accordance with the provisions of section 143 of the 1999 Act; or</p> <p>(b) if a person's fingerprints are taken with his consent within ten years of them being taken; or</p> <p>(c) if a person's fingerprints are taken under paragraph 18 of Schedule 2 to the 1971 Act as soon as reasonably practicable after the fingerprints have been used for identification purposes.'</p>
Code Provision (Northern Ireland)	Modification
Code D	
3.1	<p>Delete 'if he is at a police station' and 'he must be told that he may witness their destruction if he asks to do so within five days of being cleared or informed that he will not be prosecuted.'</p> <p>For 'if paragraph 3.4 applies' substitute 'in accordance with paragraph 3.4'.</p>
3.2	<p>Delete from 'over the age of ten years' to 'investigation of the offence or since conviction.'</p> <p>After 'any person' insert 'are provided by paragraph 18 of Schedule 2 to the Immigration Act 1971 and section 141 of the Immigration and Asylum Act 1999. These provide that fingerprints may be taken without consent where:</p> <ul style="list-style-type: none"> (a) It is reasonably necessary for the purpose of identifying a person who is detained under paragraph 16 of Schedule 2 to the Immigration Act 1971; (b) A person has failed to produce on arrival a valid passport with photograph or some other document satisfactorily establishing his identity and nationality and an immigration officer does not consider that he has a reasonable excuse for the failure; (c) A person has been refused entry to the United Kingdom but has been temporarily admitted and an immigration officer reasonably suspects that he might break a condition imposed on him relating to residence or reporting to a police or immigration officer and this decision has been confirmed by a chief immigration officer;

3.4	<p>(d) Directions to remove a person (as an illegal entrant, a person liable to removal under section 10 of the Immigration and Asylum Act 1999, or a person who is the subject of a deportation order) from the United Kingdom have been given;</p> <p>(e) A person has been arrested under UK immigration laws (under paragraph 17 of Schedule 2 to the Immigration Act 1971);</p> <p>(f) A person has made a claim for asylum or a claim under Article 3 of the European Convention on Human Rights; or</p> <p>(g) A person is a dependant of someone who falls into one of the categories (b) to (f) above'</p> <p>Delete from 'as soon as practicable' to the end.</p> <p>After 'must be destroyed' insert:</p> <p>'(a) in accordance with the provisions of section 143 of the 1999 Act; or</p> <p>(b) if a person's fingerprints are taken with his consent within ten years of them being taken; or</p> <p>(c) if a person's fingerprints are taken under paragraph 18 of Schedule 2 to the 1999* Act as soon as reasonably practicable after the fingerprints have been used for identification purposes.</p> <p>When fingerprints are destroyed, access to relevant computer data shall be made impossible as soon as it is practicable to do so'</p>
-----	---

8 July 2013 - The format of this document has been updated to comply with current Home Office publishing guidelines. No changes have been made to the content.

* This should refer to the Immigration Act 1971