EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIMINAL EVIDENCE ACT 1984 (CODES OF PRACTICE) (REVISIONS TO CODE A) ORDER

2006 No.2165

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

2. Description

2.1 The Order brings into force on 31st August 2006 a change to Code of Practice A (Code A) under the Police and Criminal Evidence Act 1984 (PACE) which enables constables of the British Transport Police operating from certain specified locations, and exercising their powers throughout England and Wales, to provide an electronic receipt rather than a full record when they undertake a stop or stop and search under statutory powers. The person will be informed of their right to obtain a copy of the full record and how this can be obtained. The amended part of Code A which has been laid before Parliament together with this Order will supersede that part of the existing Code, which has been in operation since 1 January 2006.

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

3.1 None

4. Legislative Background

4.1 The instrument is made under section 67(5) of PACE and is being laid before Parliament pursuant to section 67(7A) of that Act.

4.2 During the course of debate on what became section 11 of the Criminal Justice Act 2003, Baroness Scotland of Ashtal QC, Minister of State at the Home Office, undertook to refer proposed revisions to the Codes of Practice to the Home Affairs Select Committee for consideration of the appropriate Parliamentary process to implement the revisions and be bound by that recommendation (Lords Hansard 7 July 2003: Cols 37 & 38). The revisions which this instrument brings into force were duly referred to the Home Affairs Select Committee which recommended that the instrument bringing the revisions into force should be laid before Parliament pursuant to section 67(7A) of PACE.

5. Extent

5.1 This instrument applies to British Transport Police (BTP) officers operating from offices in West Ham, Wembley and Hammersmith in the exercise of their powers across England and Wales. Subject to any authorised extension, the pilot will last for 6 months from the date of commencement of this Order.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Sections 60, 60A and 66 (as amended) of PACE provide for the Secretary of State to issue Codes of Practice governing certain key areas of police procedure Code A: Stop and Search, governs the exercise of police powers in respect of stopping and searching persons. The current version of this Code was brought into force on 1 January 2006 by S.I. 2005/3503.

7.2 Code A requires that a full record of all stops and all stop and searches is made at the time of the incident. This is to ensure accountability and aid supervision. As a general rule, a copy of that full record is to be given to the person immediately following the stop or stop and search.

7.3 Code A as amended by this order will allow for an electronic receipt to be provided immediately in lieu of a written record. The ability to do so is limited to British Transport Police (BTP) officers operating from specific BTP offices in West Ham, Wembley and Hammersmith. The nature of the BTP operations means that these officers may be deployed anywhere within the rail and underground network in England and Wales (and indeed the UK). Changes to Code A will apply only in respect of the exercise of their powers in England and Wales and only for the duration of the pilot.

7.4 The pilot scheme will use mobile data technology to record stops and stops and searches. The evaluation will consider the impact on police accountability and police bureaucracy.

7.5 Code A ensures that effective safeguards and protections remain in place for the individual. When giving such a receipt, the officer must notify the person that the full written record is available and how it can be accessed.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument 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 versions of the Codes of Practice.

9. Contact

Alan Brown at the Home Office Tel: 020 7035 0877 or e-mail: Alan.Brown@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.