EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989 (CODES OF PRACTICE) ORDER 2026

S.R. 2026 No. 107

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Justice to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2 This Order is made under Article 66(4) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI) and is being laid before the Assembly pursuant to Article 89 of that Order. It is subject to the negative resolution procedure.

2. Purpose

2.1 The Order brings into force on 1 July 2026 revisions to Codes of Practice A to H issued under Article 60, 60A, and 65 of PACE NI and the introduction of a new Code of Practice I (Detention, treatment and questioning by police officers of persons in police detention under section 27 of, and Schedule 6 to, the National Security Act 2023 (NSA)).

3. Background

3.1 Articles 60, 60A and 65 of PACE NI provide for the Department of Justice to issue Codes of Practice governing certain aspects of police powers and procedures in Northern Ireland.

3.2 The last substantive review of the Codes of Practice was carried out in 2015. Since then, police powers in Northern Ireland have been revised by various pieces of Westminster legislation, such as the Counter Terrorism and Border Security Act 2019 (CTBSA), the Police, Crime, Sentencing and Courts Act 2022 (PCSC Act) and the NSA.

3.3 Codes A to H are being revised broadly to reflect changes to primary legislation made by Westminster in the CTBSA and the PCSC Act. Code I is a new code which is required to support the NSA.

3.4 Under Article 66(4) of PACE NI a revision of a Code does not come into operation until the Department of Justice has by order provided for this.

4. Consultation

4.1 The Department completed a 13 week public consultation, which ran from 25 July 2024 to 23 October 2024. There was a total of 36 responses. These were considered and modifications were made where appropriate.

5. Equality Impact

5.1 Consideration has been given to compliance with section 75 of the Northern Ireland Act 1988 and no adverse impact has been identified. The Equality Impact Assessment has been screened out with mitigating actions (minor impacts). The provisions of the PACE Codes set out the safeguards and rights for those detained in custody and include provisions to meet the s75 needs across the various categories. While some proposed amendments have a minor impact on groups, these impacts are positive. Engagement to date with PSNI and Home Office has not identified any equality implications with the operation of the existing Codes.

6. Regulatory Impact

6.1 A Regulatory impact Assessment has not been prepared for this Order as it has no impact on business, charities or voluntary bodies.

7. Financial Implications

7.1 There are no financial implications arising from this Order.

8. Section 24 of the Northern Ireland Act 1998

8.1 The proposed Order is considered compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 There have been amendments in the Codes which reference relevant rights/requirements originally stemming from EU Directives 2010/64 right to interpretation and translation in criminal proceedings and 2012/13 right to information in criminal proceedings.

10. Parity or Replicatory Measure

10.1 Not applicable.

11. Additional Information

11.1 Not applicable.