EXPLANATORY MEMORANDUM TO

THE TERRORISM ACT 2000 (REVISED CODE OF PRACTICE FOR THE IDENTIFICATION OF PERSONS BY POLICE OFFICERS) (NORTHERN IRELAND) ORDER 2006

2006 No. 1330

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

2. Description

2.1 This Order brings into operation a revised code of practice in connection with the exercise by police offices of powers conferred under the Terrorism Act 2000 ("the 2000 Act"). The revised code alters the procedures governing the identification of terrorist suspects so as to require the police to use video identification, if practicable, as the primary method of identifying terrorist suspects.

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

3.1 None.

4. Legislative Background

4.1 This Order comes into force on the day after the day on which it is made, and provides that the revised code of practice comes into operation on 12th May 2006. The amendments to the code of practice relate to Part 2, which governs the identification of suspects detained under the Terrorism Act 2000. The first such code was brought into operation by the Terrorism Act 2000 (Code of Practice on the Exercise of Police Powers) (Northern Ireland) Order 2001 (S.I. 2001/401). There have been no other revisions of the code.

4.2 The code of practice is made under section 99(1) of the 2000 Act, which extends only to Northern Ireland. Before making any revisions to the code, section 101(2) requires the Secretary of State to publish, and consult on, the proposed changes and make any necessary amendments. Consultation took place in September 2005, and the revised code was laid in draft before Parliament on 14th March 2006, in accordance with section 101(3).

5. Extent

5.1 This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

The Secretary of State for Northern Ireland has made the following statement regarding Human Rights:

In my view the provisions of the Terrorism Act 2000 (Revised Code of Practice for the Identification of Persons by Police Officers) (Northern Ireland) Order 2006 are compatible with the Convention rights.

7. Policy background

7.1 The 2000 Act confers powers on the police in respect of investigations to do with terrorism offences. The Secretary of State may issue a code for the use of police on the exercise of those powers; the first such code came into operation on 19th February 2001.

7.2 The methods employed by police officers to identify suspects in an investigation can only be used in the order provided in the code, and only when a method is refused by the suspect or deemed impractical can the next method on the list be considered. This revised code allows the Police Service of Northern Ireland to use video identification procedures as the primary method of identifying terrorist suspects. The methods in the hierarchy also include identification parades, group identification and confrontation.

7.3 The codes of practice issued under the Police and Criminal Evidence (Northern Ireland) Order 1989 govern the identification of suspects in relation to other offences, and are also being amended in the same way, and will come into operation at the same time. They are subject to a different Parliamentary procedure.

7.4 A twelve-week consultation was carried out from September to December 2005 on the proposed changes to both codes. There were 4 formal responses which were all broadly supportive of the proposals.

7.5 The same changes were made in England and Wales in 2002 and received some positive media coverage. There should be local favourable coverage in Northern Ireland when the new codes come into force.

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 the cost of the video identification technology itself, which is offset against a saving in police time and resources, as well as the accuracy of the procedure.

9. Contact

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