Police and Criminal Evidence Act 1984

AN INTRODUCTION TO UK LEGISLATION | JULY 2020 | FIRST EDITION

The Police and Criminal Evidence Act 1984 sets out the powers and duties of the police and the gathering of criminal evidence. This guide provides a general overview of the legislation for those who are new to the subject.



OVERVIEW OF THE LAW

The Police and Criminal Evidence
Act 1984 (the 'Act') came in to force
on 1 January 1986 and provides a legal
framework governing the powers and
conduct of the police.

The Act covers:

- stop and search powers;
- search of premises:
- arrest, detention, investigation and interview of suspects;
- · Identification of evidence; and
- the taking of personal samples.

The Act seeks to provide the police with guidelines for investigations while balancing these powers with the rights of the individual. It has been repeatedly revised to reflect changing considerations of society and the relationship between the police, individuals and the investigation of orime.

WHO DOES IT APPLY TO?

The Act and its associated codes of practice apply to police officers (including the British Transport Police and Ministry of Defence Police) as well as persons other than police officers who are charged with the duty of investigating offences or charging offenders. These include:

- Serious Fraud Office officers;
- HMRC officers:
- Tracking Standards officers;
- RSPCA Inspections:
- store detectives or other similar security officers; and
- others acting under statutory powers.

It will be a question of fact as to whether an incitridual meets this criteria, but the legal duty can also include one provided for by contract. If you are ever in doubt about whether conduct falls within the scope of the legislation, always seek appropriate legal advice.

OTHER RELEVANT LEGISLATION

Other legislation has amended or provided further provisions to the Act including:

- Criminal Justice and Public Order Act 1994;
- Human Rights Act 1998;
- Criminal Justice and Police Act 200t;
- Criminal Justice Act 2003;
- Serious Organised Crime and Police Act 2005;
- Police (Detention and Ball) Act 2011;
 and
- Policing and Crime Act 2017.

CODES OF PRACTICE

There are eight codes of practice which regulate the conduct of persons charged with the auty of investigating offences. These cover different aspects of police powers as follows:

- powers to search a person or vehicle prior to an arrest (Code A);
- powers to search premises and seize property (Code B);
- detention and questioning of suspects in police custody (Code C);
- process of identifying suspects and recording that information (Code D);
- audio recording of interviews with suspects (Code E);
- visual recording of interviews with suspects (Code F);
- powers of arrest (Code G); and
- detention and questioning of terrorism suspects (Code H).

RISKS OF NON-COMPLIANCE

Non-compliance with the codes of practice by a police officer does not automatically give rise to any criminal or civil liability. The consequences of non-compliance or breaches of the codes of practice may include their introduction or exclusion as evidence in criminal and civil proceedings. This may substantially weaken a criminal prosecution with the exclusion of evidence against a defendant or for that evidence to be deemed as having limited importance.

Non-compliance with the legislation may lead to both oriminal lability and civil actions for damages. Police actions that are unauthorised under the Act, such as an unlawful arrest where force is used, could amount to an assault. Equally, a civil action for false imprisonment may arise following an arrest where no reasonable suspicion of criminal conduct exists.

In extreme circumstances where lethal force is used against an individual, this may give rise to a prosecution of a police officer for murder or mansisupatter.

OWERSIGHT

The Independent Office for Police Conduct oversees the system of police complaints in England and Wales. The IOPC investigates the most serious matters (such as deaths following police contact) and also sets the standards for how the police hangle complaints.

A person who is dissatisfied with a police force can complain directly to the relevant force or via the IOPC who will refer the complaint to the organisation involved.

Certain designated bodies such as charities or advocacy groups' can make a 'super-complaint' in the public interest about trends or patterns in policing. These are made to Her Hajesty's Inspectorate of Constitutionary and Fire & Rescue Services.

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