



Criminal Procedure and Investigations Act 1996

1996 CHAPTER 25

PART II

CRIMINAL INVESTIGATIONS

22 Introduction

- (1) For the purposes of this Part a criminal investigation is an investigation conducted by police officers with a view to it being ascertained—
 - (a) whether a person should be charged with an offence, or
 - (b) whether a person charged with an offence is guilty of it.
- (2) In this Part references to material are to material of all kinds, and in particular include references to—
 - (a) information, and
 - (b) objects of all descriptions.
- (3) In this Part references to recording information are to putting it in a durable or retrievable form (such as writing or tape).

23 Code of practice

- (1) The Secretary of State shall prepare a code of practice containing provisions designed to secure—
 - (a) that where a criminal investigation is conducted all reasonable steps are taken for the purposes of the investigation and, in particular, all reasonable lines of inquiry are pursued;
 - (b) that information which is obtained in the course of a criminal investigation and may be relevant to the investigation is recorded;
 - (c) that any record of such information is retained;

Status: This is the original version (as it was originally enacted).

- (d) that any other material which is obtained in the course of a criminal investigation and may be relevant to the investigation is retained;
 - (e) that information falling within paragraph (b) and material falling within paragraph (d) is revealed to a person who is involved in the prosecution of criminal proceedings arising out of or relating to the investigation and who is identified in accordance with prescribed provisions;
 - (f) that where such a person inspects information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;
 - (g) that where such a person is given a document indicating the nature of information or other material in pursuance of a requirement that it be revealed to him, and he requests that it be disclosed to the accused, the accused is allowed to inspect it or is given a copy of it;
 - (h) that the person who is to allow the accused to inspect information or other material or to give him a copy of it shall decide which of those (inspecting or giving a copy) is appropriate;
 - (i) that where the accused is allowed to inspect material as mentioned in paragraph (f) or (g) and he requests a copy, he is given one unless the person allowing the inspection is of opinion that it is not practicable or not desirable to give him one;
 - (j) that a person mentioned in paragraph (e) is given a written statement that prescribed activities which the code requires have been carried out.
- (2) The code may include provision—
- (a) that a police officer identified in accordance with prescribed provisions must carry out a prescribed activity which the code requires;
 - (b) that a police officer so identified must take steps to secure the carrying out by a person (whether or not a police officer) of a prescribed activity which the code requires;
 - (c) that a duty must be discharged by different people in succession in prescribed circumstances (as where a person dies or retires).
- (3) The code may include provision about the form in which information is to be recorded.
- (4) The code may include provision about the manner in which and the period for which—
- (a) a record of information is to be retained, and
 - (b) any other material is to be retained;
- and if a person is charged with an offence the period may extend beyond a conviction or an acquittal.
- (5) The code may include provision about the time when, the form in which, the way in which, and the extent to which, information or any other material is to be revealed to the person mentioned in subsection (1)(e).
- (6) The code must be so framed that it does not apply to material intercepted in obedience to a warrant issued under section 2 of the Interception of Communications Act 1985.
- (7) The code may—
- (a) make different provision in relation to different cases or descriptions of case;
 - (b) contain exceptions as regards prescribed cases or descriptions of case.
- (8) In this section “prescribed” means prescribed by the code.

24 Examples of disclosure provisions

- (1) This section gives examples of the kinds of provision that may be included in the code by virtue of section 23(5).
- (2) The code may provide that if the person required to reveal material has possession of material which he believes is sensitive he must give a document which—
 - (a) indicates the nature of that material, and
 - (b) states that he so believes.
- (3) The code may provide that if the person required to reveal material has possession of material which is of a description prescribed under this subsection and which he does not believe is sensitive he must give a document which—
 - (a) indicates the nature of that material, and
 - (b) states that he does not so believe.
- (4) The code may provide that if—
 - (a) a document is given in pursuance of provision contained in the code by virtue of subsection (2), and
 - (b) a person identified in accordance with prescribed provisions asks for any of the material,the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.
- (5) The code may provide that if—
 - (a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),
 - (b) all or any of the material is of a description prescribed under this subsection, and
 - (c) a person is identified in accordance with prescribed provisions as entitled to material of that description,the person giving the document must give a copy of the material of that description to the person so identified or (depending on the circumstances) must allow him to inspect it.
- (6) The code may provide that if—
 - (a) a document is given in pursuance of provision contained in the code by virtue of subsection (3),
 - (b) all or any of the material is not of a description prescribed under subsection (5), and
 - (c) a person identified in accordance with prescribed provisions asks for any of the material not of that description,the person giving the document must give a copy of the material asked for to the person asking for it or (depending on the circumstances) must allow him to inspect it.
- (7) The code may provide that if the person required to reveal material has possession of material which he believes is sensitive and of such a nature that provision contained in the code by virtue of subsection (2) should not apply with regard to it—
 - (a) that provision shall not apply with regard to the material,
 - (b) he must notify a person identified in accordance with prescribed provisions of the existence of the material, and
 - (c) he must allow the person so notified to inspect the material.

Status: This is the original version (as it was originally enacted).

(8) For the purposes of this section material is sensitive to the extent that its disclosure under Part I would be contrary to the public interest.

(9) In this section “prescribed” means prescribed by the code.

25 Operation and revision of code

(1) When the Secretary of State has prepared a code under section 23—

- (a) he shall publish it in the form of a draft,
- (b) he shall consider any representations made to him about the draft, and
- (c) he may modify the draft accordingly.

(2) When the Secretary of State has acted under subsection (1) he shall lay the code before each House of Parliament, and when he has done so he may bring it into operation on such day as he may appoint by order.

(3) A code brought into operation under this section shall apply in relation to suspected or alleged offences into which no criminal investigation has begun before the day so appointed.

(4) The Secretary of State may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section shall apply to a revised code as they apply to the code as first prepared.

26 Effect of code

(1) A person other than a police officer who is charged with the duty of conducting an investigation with a view to it being ascertained—

- (a) whether a person should be charged with an offence, or
- (b) whether a person charged with an offence is guilty of it,

shall in discharging that duty have regard to any relevant provision of a code which would apply if the investigation were conducted by police officers.

(2) A failure—

- (a) by a police officer to comply with any provision of a code for the time being in operation by virtue of an order under section 25, or
- (b) by a person to comply with subsection (1),

shall not in itself render him liable to any criminal or civil proceedings.

(3) In all criminal and civil proceedings a code in operation at any time by virtue of an order under section 25 shall be admissible in evidence.

(4) If it appears to a court or tribunal conducting criminal or civil proceedings that—

- (a) any provision of a code in operation at any time by virtue of an order under section 25, or
- (b) any failure mentioned in subsection (2)(a) or (b),

is relevant to any question arising in the proceedings, the provision or failure shall be taken into account in deciding the question.

27 Common law rules as to criminal investigations

- (1) Where a code prepared under section 23 and brought into operation under section 25 applies in relation to a suspected or alleged offence, the rules of common law which—
 - (a) were effective immediately before the appointed day, and
 - (b) relate to the matter mentioned in subsection (2),shall not apply in relation to the suspected or alleged offence.
- (2) The matter is the revealing of material—
 - (a) by a police officer or other person charged with the duty of conducting an investigation with a view to it being ascertained whether a person should be charged with an offence or whether a person charged with an offence is guilty of it;
 - (b) to a person involved in the prosecution of criminal proceedings.
- (3) In subsection (1) “the appointed day” means the day appointed under section 25 with regard to the code as first prepared.