



Protection of Freedoms Act 2012

2012 CHAPTER 9

PART 4

COUNTER-TERRORISM POWERS

Stop and search powers: general

62 Code of practice

After section 47A of the Terrorism Act 2000 (for which see section 61) insert—

“Code of practice relating to sections 43, 43A and 47A

47AA Code of practice relating to sections 43, 43A and 47A

- (1) The Secretary of State must prepare a code of practice containing guidance about—
 - (a) the exercise of the powers conferred by sections 43 and 43A,
 - (b) the exercise of the powers to give an authorisation under section 47A(2) or (3),
 - (c) the exercise of the powers conferred by such an authorisation and section 47A(6), and
 - (d) such other matters in connection with the exercise of any of the powers mentioned in paragraphs (a) to (c) as the Secretary of State considers appropriate.
- (2) Such a code may make different provision for different purposes.
- (3) In the course of preparing such a code, the Secretary of State must consult the Lord Advocate and such other persons as the Secretary of State considers appropriate.

Status: This is the original version (as it was originally enacted).

47AB Issuing of code

- (1) The Secretary of State must lay before Parliament—
 - (a) a code of practice prepared under section 47AA, and
 - (b) a draft of an order providing for the code to come into force.
- (2) The Secretary of State must make the order and issue the code if the draft of the order is approved by a resolution of each House of Parliament.
- (3) The Secretary of State must not make the order or issue the code unless the draft of the order is so approved.
- (4) The Secretary of State must prepare another code of practice under section 47AA if—
 - (a) the draft of the order is not so approved, and
 - (b) the Secretary of State considers that there is no realistic prospect that it will be so approved.
- (5) A code comes into force in accordance with an order under this section.

47AC Alteration or replacement of code

- (1) The Secretary of State—
 - (a) must keep the search powers code under review, and
 - (b) may prepare an alteration to the code or a replacement code.
- (2) Before preparing an alteration or a replacement code, the Secretary of State must consult the Lord Advocate and such other persons as the Secretary of State considers appropriate.
- (3) Section 47AB (other than subsection (4)) applies to an alteration or a replacement code prepared under this section as it applies to a code prepared under section 47AA.
- (4) In this section “the search powers code” means the code of practice issued under section 47AB(2) (as altered or replaced from time to time).

47AD Publication of code

- (1) The Secretary of State must publish the code (and any replacement code) issued under section 47AB(2).
- (2) The Secretary of State must publish—
 - (a) any alteration issued under section 47AB(2), or
 - (b) the code or replacement code as altered by it.

47AE Effect of code

- (1) A constable must have regard to the search powers code when exercising any powers to which the code relates.

- (2) A failure on the part of a constable to act in accordance with any provision of the search powers code does not of itself make that person liable to criminal or civil proceedings.
- (3) The search powers code is admissible in evidence in any such proceedings.
- (4) A court or tribunal may, in particular, take into account a failure by a constable to have regard to the search powers code in determining a question in any such proceedings.
- (5) The references in this section to a constable include, in relation to any functions exercisable by a person by virtue of paragraph 15 of Schedule 4 to the Police Reform Act 2002 or paragraph 16 of Schedule 2A to the Police (Northern Ireland) Act 2003 (search powers in specified areas or places for community support officers), references to that person.
- (6) In this section “the search powers code” means the code of practice issued under section 47AB(2) (as altered or replaced from time to time).”