

# PROTECTION OF FREEDOMS ACT 2012

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## EXPLANATORY NOTES

### THE ACT

#### *Commentary on Sections*

#### **Part 2: Regulation of surveillance**

#### **Chapter 1: Regulation of CCTV and other surveillance camera technology**

#### **Section 33: Effect of code**

157. *Subsection (1)* provides that certain specified bodies or organisations (referred to as a “relevant authority”) must have regard to the code if they operate or intend to operate any surveillance camera systems covered by the code. The bodies designated in the first instance as relevant authorities are set out in *subsection (5)*, namely local authorities, police and crime commissioners and chief officers of police.
158. *Subsection (5)(k)* provides that the Secretary of State may, by order (subject to the affirmative resolution procedure (*subsection (9)*)), designate other individuals or bodies, or descriptions thereof, as “relevant authorities” for the purposes of this section, thus requiring such designated bodies also to have regard to the code. Such an order may provide that a person designated as a relevant authority by virtue of such order is only required to have regard to the surveillance camera code of practice when discharging specified functions or acting in a specified capacity (*subsection (6)* and (*7*)). This is intended to provide for those instances where certain bodies have a dual role or multiple roles or, for example, exercise both public functions and private sector functions, and where the duty to have regard to the code may therefore be limited to the exercise of one, or one part of, their functions. Before making such an order the Secretary of State must consult the persons to be affected by it, or their representative body, together with other specified persons (*subsection (8)*). *Subsection (10)* disapplies the hybridity procedure should such procedure apply to an order made under *subsection (5)(k)*.
159. *Subsection (2)* provides that a failure to adhere to any aspects of the code of practice would not, of itself, render a person liable to civil or criminal proceedings. However, the surveillance camera code is admissible in criminal or civil proceedings (*subsection (3)*) and a court or tribunal may take into account any failure of a relevant authority to comply with the duty to have regard to the code (*subsection (4)*).