

PROTECTION OF FREEDOMS ACT 2012

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 4: Counter-terrorism powers

Section 62: Code of Practice

253. This section, which inserts new sections 47AA to 47AE into the 2000 Act, makes provision for a code of practice for terrorism stop and search powers. New section 47AA places a duty on the Secretary of State to prepare a code of practice about the powers in sections 43 and 43A of the 2000 Act (stop and search with reasonable suspicion), and those created by new section 47A of the 2000 Act. New section 47AB makes provision for the code to be brought into force by order, subject to the affirmative resolution procedure. New section 47AC requires that the code is kept under review; any amendments to the code or replacement code are subject to the same parliamentary procedure as provided for in new section 47AB. New section 47AD requires that the code and any altered versions are published. New section 47AE(1) requires a police officer (or police community support officer) to have regard to the code when exercising the powers to which it relates and explains the effect of the code. New section 47AE(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 search powers code is admissible in criminal or civil proceedings (new section 47AE(3)) and a court or tribunal may take into account any failure by a police officer (or community support officer) to comply with the duty to have regard to the code (new section 47AE(4)).