



# Protection of Freedoms Act 2012

## 2012 CHAPTER 9

### PART 2

#### REGULATION OF SURVEILLANCE

#### CHAPTER 1

##### REGULATION OF CCTV AND OTHER SURVEILLANCE CAMERA TECHNOLOGY

##### *Enforcement and Commissioner*

### **33 Effect of code**

- (1) A relevant authority must have regard to the surveillance camera code when exercising any functions to which the code relates.
- (2) A failure on the part of any person to act in accordance with any provision of the surveillance camera code does not of itself make that person liable to criminal or civil proceedings.
- (3) The surveillance camera code is admissible in evidence in any such proceedings.
- (4) A court or tribunal may, in particular, take into account a failure by a relevant authority to have regard to the surveillance camera code in determining a question in any such proceedings.
- (5) In this section “relevant authority” means—
  - (a) a local authority within the meaning of the Local Government Act 1972,
  - (b) the Greater London Authority,
  - (c) the Common Council of the City of London in its capacity as a local authority,
  - (d) the Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple, in their capacity as a local authority,
  - (e) the Council of the Isles of Scilly,

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- (f) a parish meeting constituted under section 13 of the Local Government Act 1972,
  - (g) a police and crime commissioner,
  - (h) the Mayor’s Office for Policing and Crime,
  - (i) the Common Council of the City of London in its capacity as a police authority,
  - (j) any chief officer of a police force in England and Wales,
  - (k) any person specified or described by the Secretary of State in an order made by statutory instrument.
- (6) An order under subsection (5) may, in particular—
- (a) restrict the specification or description of a person to that of the person when acting in a specified capacity or exercising specified or described functions,
  - (b) contain transitional, transitory or saving provision.
- (7) So far as an order under subsection (5) contains a restriction of the kind mentioned in subsection (6)(a) in relation to a person, the duty in subsection (1) applies only to the person in that capacity or (as the case may be) only in relation to those functions.
- (8) Before making an order under subsection (5) in relation to any person or description of persons, the Secretary of State must consult—
- (a) such persons appearing to the Secretary of State to be representative of the views of the person or persons in relation to whom the order may be made as the Secretary of State considers appropriate,
  - (b) the Association of Chief Police Officers,
  - (c) the Information Commissioner,
  - (d) the Chief Surveillance Commissioner,
  - (e) the Surveillance Camera Commissioner,
  - (f) the Welsh Ministers, and
  - (g) such other persons as the Secretary of State considers appropriate.
- (9) No instrument containing an order under subsection (5) is to be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (10) If a draft of an instrument containing an order under subsection (5) would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it is to proceed in that House as if it were not a hybrid instrument.

### **34 Commissioner in relation to code**

- (1) The Secretary of State must appoint a person as the Surveillance Camera Commissioner (in this Chapter “the Commissioner”).
- (2) The Commissioner is to have the following functions—
  - (a) encouraging compliance with the surveillance camera code,
  - (b) reviewing the operation of the code, and
  - (c) providing advice about the code (including changes to it or breaches of it).
- (3) The Commissioner is to hold office in accordance with the terms of the Commissioner’s appointment; and the Secretary of State may pay in respect of the

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Commissioner any expenses, remuneration or allowances that the Secretary of State may determine.

- (4) The Secretary of State may, after consultation with the Commissioner, provide the Commissioner with—
- (a) such staff, and
  - (b) such accommodation, equipment and other facilities,
- as the Secretary of State considers necessary for the carrying out of the Commissioner's functions.

### **35 Reports by Commissioner**

- (1) As soon as reasonably practicable after the end of each reporting period—
- (a) the Commissioner must—
    - (i) prepare a report about the exercise by the Commissioner during that period of the functions of the Commissioner, and
    - (ii) give a copy of the report to the Secretary of State,
  - (b) the Secretary of State must lay a copy of the report before Parliament, and
  - (c) the Commissioner must publish the report.
- (2) The reporting periods are—
- (a) the period—
    - (i) beginning with the surveillance camera code first coming into force or the making of the first appointment as Commissioner (whichever is the later), and
    - (ii) ending with the next 31 March or, if the period ending with that date is 6 months or less, ending with the next 31 March after that date, and
  - (b) each succeeding period of 12 months.