



# Protection of Freedoms Act 2012

## 2012 CHAPTER 9

### PART 4

#### COUNTER-TERRORISM POWERS

##### *Stop and search powers: general*

#### **59 Repeal of existing stop and search powers**

Omit sections 44 to 47 of the Terrorism Act 2000 (power to stop and search).

#### **60 Replacement powers to stop and search persons and vehicles**

(1) Omit section 43(3) of the Terrorism Act 2000 (requirement for searches of persons to be carried out by someone of the same sex).

(2) After section 43(4) of that Act insert—

“(4A) Subsection (4B) applies if a constable, in exercising the power under subsection (1) to stop a person whom the constable reasonably suspects to be a terrorist, stops a vehicle (see section 116(2)).

(4B) The constable—

- (a) may search the vehicle and anything in or on it to discover whether there is anything which may constitute evidence that the person concerned is a terrorist, and
- (b) may seize and retain anything which the constable—
  - (i) discovers in the course of such a search, and
  - (ii) reasonably suspects may constitute evidence that the person is a terrorist.

(4C) Nothing in subsection (4B) confers a power to search any person but the power to search in that subsection is in addition to the power in subsection (1) to search a person whom the constable reasonably suspects to be a terrorist.”

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*Status: This is the original version (as it was originally enacted).*

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(3) After section 43 of that Act insert—

**“43A Search of vehicles**

- (1) Subsection (2) applies if a constable reasonably suspects that a vehicle is being used for the purposes of terrorism.
- (2) The constable may stop and search—
  - (a) the vehicle;
  - (b) the driver of the vehicle;
  - (c) a passenger in the vehicle;
  - (d) anything in or on the vehicle or carried by the driver or a passenger; to discover whether there is anything which may constitute evidence that the vehicle is being used for the purposes of terrorism.
- (3) A constable may seize and retain anything which the constable—
  - (a) discovers in the course of a search under this section, and
  - (b) reasonably suspects may constitute evidence that the vehicle is being used for the purposes of terrorism.
- (4) A person who has the powers of a constable in one Part of the United Kingdom may exercise a power under this section in any Part of the United Kingdom.
- (5) In this section “driver”, in relation to an aircraft, hovercraft or vessel, means the captain, pilot or other person with control of the aircraft, hovercraft or vessel or any member of its crew and, in relation to a train, includes any member of its crew.”

**61 Replacement powers to stop and search in specified locations**

(1) Before section 48 of the Terrorism Act 2000 (and the italic cross-heading before it) insert—

*“Powers to stop and search in specified locations*

**47A Searches in specified areas or places**

- (1) A senior police officer may give an authorisation under subsection (2) or (3) in relation to a specified area or place if the officer—
  - (a) reasonably suspects that an act of terrorism will take place; and
  - (b) reasonably considers that—
    - (i) the authorisation is necessary to prevent such an act;
    - (ii) the specified area or place is no greater than is necessary to prevent such an act; and
    - (iii) the duration of the authorisation is no longer than is necessary to prevent such an act.
- (2) An authorisation under this subsection authorises any constable in uniform to stop a vehicle in the specified area or place and to search—
  - (a) the vehicle;

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

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- (b) the driver of the vehicle;
  - (c) a passenger in the vehicle;
  - (d) anything in or on the vehicle or carried by the driver or a passenger.
- (3) An authorisation under this subsection authorises any constable in uniform to stop a pedestrian in the specified area or place and to search—
  - (a) the pedestrian;
  - (b) anything carried by the pedestrian.
- (4) A constable in uniform may exercise the power conferred by an authorisation under subsection (2) or (3) only for the purpose of discovering whether there is anything which may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a person falling within section 40(1)(b).
- (5) But the power conferred by such an authorisation may be exercised whether or not the constable reasonably suspects that there is such evidence.
- (6) A constable may seize and retain anything which the constable—
  - (a) discovers in the course of a search under such an authorisation; and
  - (b) reasonably suspects may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a person falling within section 40(1)(b).
- (7) Schedule 6B (which makes supplementary provision about authorisations under this section) has effect.
- (8) In this section—
  - “driver” has the meaning given by section 43A(5);
  - “senior police officer” has the same meaning as in Schedule 6B (see paragraph 14(1) and (2) of that Schedule);
  - “specified” means specified in an authorisation.”
- (2) Schedule 5 (which inserts a new Schedule making supplementary provision about powers to stop and search in specified locations into the Terrorism Act 2000) has effect.

## **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),

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- (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.

#### **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).”