

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT POLICE, CRIME, SENTENCING AND
COURTS ACT 2022 (CONSEQUENTIAL PROVISION)
REGULATIONS 2022

Monday 27 June 2022

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The Committee consisted of the following Members:

Chair: MR VIRENDRA SHARMA

- | | |
|---|---|
| † Anderson, Stuart (<i>Wolverhampton South West</i>)
(Con) | † Offord, Dr Matthew (<i>Hendon</i>) (Con) |
| Cox, Sir Geoffrey (<i>Torrige and West Devon</i>) (Con) | † Oswald, Kirsten (<i>East Renfrewshire</i>) (SNP) |
| † Elmore, Chris (<i>Ogmore</i>) (Lab) | † Pawsey, Mark (<i>Rugby</i>) (Con) |
| † Hardy, Emma (<i>Kingston upon Hull West and Hessle</i>)
(Lab) | † Qureshi, Yasmin (<i>Bolton South East</i>) (Lab) |
| † Hinds, Damian (<i>Minister for Security and Borders</i>) | Smith, Cat (<i>Lancaster and Fleetwood</i>) (Lab) |
| † Lamont, John (<i>Berwickshire, Roxburgh and Selkirk</i>)
(Con) | † Tomlinson, Justin (<i>North Swindon</i>) (Con) |
| † Lynch, Holly (<i>Halifax</i>) (Lab) | Trickett, Jon (<i>Hemsworth</i>) (Lab) |
| † Mann, Scott (<i>North Cornwall</i>) (Con) | † Vickers, Matt (<i>Stockton South</i>) (Con) |
| † Mullan, Dr Kieran (<i>Crewe and Nantwich</i>) (Con) | Huw Yardley, Lilian Zeitelhack, <i>Committee Clerks</i> |
| | † attended the Committee |

First Delegated Legislation Committee

Monday 27 June 2022

[MR VIRENDRA SHARMA *in the Chair*]

Draft Police, Crime, Sentencing and Courts Act 2022 (Consequential Provision) Regulations 2022

4.30 pm

The Minister for Security and Borders (Damian Hinds): I beg to move,

That the Committee has considered the draft Police, Crime, Sentencing and Courts Act 2022 (Consequential Provision) Regulations 2022.

It is a pleasure to see you in the Chair this afternoon, Mr Sharma.

Following the horrific terrorist attack at Fishmongers' Hall in November 2019, the Home Secretary commissioned the independent reviewer of terrorism legislation, Jonathan Hall QC, to review the multi-agency public protection arrangements—commonly known as MAPPAs—which are used to supervise terrorist and terrorism-risk offenders on licence in the community.

The Police, Crime, Sentencing and Courts Act 2022 established three new powers for counter-terrorism policing: a personal search power, a premises search power, and an urgent power of arrest. These powers were taken in response to recommendations made by Mr Hall following his review of MAPPAs. The draft regulations relate to the new power of personal search, the creation of which was also recommended by the Fishmongers' Hall prevention of future deaths report. The personal search power was inserted into the Terrorism Act 2000—it is new section 43C of that Act—by the 2022 Act. The new search power commences tomorrow, 28 June.

As the Government set out during the passage of the 2022 Act, the new search power will apply across the UK, enabling the police to stop and search terrorist and terrorism-connected offenders released on licence who are required to submit to the search by their licence conditions. The officer conducting the stop and search must be satisfied that it is necessary to exercise the power for purposes connected with protecting members of the public from a risk of terrorism.

The Government are clear that sensitive powers of stop and search should be subject to a code of practice setting out the basic principles for their use. Section 47AA of the Terrorism Act 2000 imposes a requirement on the Secretary of State to prepare a code of practice containing guidance about the exercise of search powers that are conferred by that Act. The draft regulations amend section 47AA so that it extends to cover the new search power inserted into the Terrorism Act by the 2022 Act. Subject to Parliament's approval, this consequential amendment will create a requirement for the Secretary of State to prepare a revised code of practice that includes guidance on the exercise of the power conferred by new section 43C.

In anticipation of section 47AA being amended, I can confirm that we are already in the process of engaging relevant stakeholders and updating the code

of practice to reflect the new section 43C stop-and-search power. We plan to lay an order next month, alongside the draft revised code of practice itself, for Parliament's consideration and approval. As such, Parliament will have the opportunity to review and debate the revised code and its contents in due course.

The draft regulations being considered today simply relate to the technical and consequential matter of whether to amend section 47AA of the Terrorism Act 2000 to enable the Government to update the relevant code of practice in the manner I have outlined. I very much hope that hon. and right hon. members on both sides of the Committee will be able to support them.

4.33 pm

Holly Lynch (Halifax) (Lab): It is a pleasure to serve under your chairmanship this afternoon, Mr Sharma. I thank the Minister for his opening remarks. I hope that he will be relieved to hear that we recognise and agree with much of what he said.

As the Minister has already outlined, the proposed changes follow recommendations by the independent reviewer of terrorism legislation, Jonathan Hall QC, as part of his review of the multi-agency public protection arrangements. The independent reviewer's work will always carry a great deal of weight with the Opposition, and we treat his recommendations with the utmost seriousness. The proposed changes also follow a recommendation from the inquest into the horrendous Fishmongers' Hall attack in November 2019. As always with such attacks, it is important that we make a detailed review of our processes and legislation in order to plug any gaps that could be exploited by those wishing to do us harm. On that basis, we are keen to see the draft regulations enacted.

Of course, with any such extension of powers there can be unintended consequences or missed opportunities, so I look forward to Jonathan Hall considering the effect of these powers once they come into effect. We will continue to consider their effectiveness to ensure that the right balance has been found. We also look forward to seeing the revised code of practice in the coming days.

Overall, the Opposition are satisfied that the changes are proportionate to the security challenges we face and necessary if we are to reduce the risk of future attacks. I will not delay proceedings further as we support the proposals in the national interest.

4.35 pm

Kirsten Oswald (East Renfrewshire) (SNP): It is a pleasure to see you in the Chair, Mr Sharma. It will probably be helpful for me to be clear about the SNP position on the 2022 Act. I think our opposition is well understood, as is our opposition to the UK's Government's clamping down on the right to protest. Despite those regrettable moves, we need to consider matters such as these in the most sensible and pragmatic way.

I note the confirmation on page 3 of the explanatory memorandum that, on this occasion and in a welcome departure from an awful lot of other occasions, the devolved Administrations were consulted and agree that the regulations are sensible. On that basis, we will fall into line on that and endorse what the hon. Member for Halifax said.

4.36 pm

Yasmin Qureshi (Bolton South East) (Lab): It is a pleasure to serve under your chairmanship, Mr Sharma. My observation does not relate to the draft regulations, which are a good idea, but I want to bring something to the attention of the Minister and those present from the Department. When the code is being prepared, I hope that one of its component parts will be that both the ethnicity and faith of anyone being searched will be recorded, and that that information will be available to the public on an annual basis.

4.37 pm

Damian Hinds: I thank the colleagues who have spoken. I acknowledge what the hon. Member for East Renfrewshire says about the importance of consultation with the devolved Administrations. To the hon. Member for Bolton South East, I say simply that we are committed, as she knows, to tackling terrorism in all its forms. This power to conduct a search will apply to any terrorist offender who is subject to the relevant licence condition, which is irrespective of someone's religious background or ethnicity. The legislation is clear that such searches cannot be conducted unless the police officer is satisfied that the search is necessary for the purposes of protecting members of the public from the risk of terrorism.

I thank the hon. Member for Halifax for her comments. I echo what she says about the importance of the work of the independent reviewer of terrorism legislation, and I assure her that the effectiveness of such legislation is continually reviewed.

In conclusion, I thank all colleagues for their presence here at this important scrutiny session—

Yasmin Qureshi: Maybe I misheard the Minister, but did he say that when somebody is searched, that search will be recorded, and also that the records will show the ethnicity and religion of the person? That is the information I was talking about. Perhaps I misunderstood him, but I would like clarity on that.

Damian Hinds: Of course, the code itself will be laid before Parliament in due course and the House will have, in a session such as this, the opportunity to debate it. I can assure the hon. Lady that that sort of recording is indeed part of the process.

I reiterate that the regulations provide a technical consequential amendment to section 47AA of the Terrorism Act to reflect the introduction of the new personal search power and to ensure it is governed by a code of practice. I emphasise again that today's regulations will not amend the content of the relevant code of practice, and our draft revised code, as I was just saying, will shortly be laid before Parliament subject to its approval. As such, I commend the draft regulations to the Committee.

Question put and agreed to.

4.40 pm

Committee rose.

