Draft Regulations laid before Parliament under paragraph 57(6) of Schedule 3 to the Counter-Terrorism and Border Security Act 2019, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No.

NATIONAL SECURITY

The Counter-Terrorism and Border Security Act 2019 (Port Examination Code of Practice) Regulations 2023

Made - - - -	***
Coming into force - -	*20th December 2023*

The Secretary of State makes these Regulations in exercise of the powers conferred by paragraph 57(3) and (4) of Schedule 3 to the Counter-Terrorism and Border Security Act 2019(**a**) ("the 2019 Act").

The Secretary of State has:

(a) in accordance with paragraph 56 of Schedule 3 to the 2019 Act revised the code of practice in connection with the exercise of functions under Schedule 3 to the 2019 Act and the training to be undertaken in connection with the exercise of those functions;

(b) in accordance with paragraph 57(1)(a) of Schedule 3 to the 2019 Act published a draft of the revised code of practice;

(c) in accordance with paragraph 57(1)(b) and (c) of Schedule 3 to the 2019 Act, considered any representations made to the Secretary of State about the draft revised code of practice and, as thought appropriate, modified the draft accordingly; and

(d) in accordance with paragraph 57(2) of Schedule 3 to the 2019 Act, laid a draft of the revised code of practice before Parliament.

A draft of this instrument has been laid before Parliament under paragraph 57(6) of Schedule 3 to the 2019 Act and has been approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Counter-Terrorism and Border Security Act 2019 (Port Examination Code of Practice) Regulations 2023 and come into force on 20th December 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

(**a**) 2019 c. 3.

Revised Code of Practice

2. The revised code of practice(**a**) entitled "Examining Officers and Review Officers under Schedule 3 to the Counter-Terrorism and Border Security Act 2019" and laid before Parliament in draft on 16th October 2023 comes into operation on 20th December 2023.

Name
Minister of State
Date Home Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations bring into operation the revised code of practice ("the Code") issued under paragraph 56(1) and (7) of Schedule 3 to the Counter-Terrorism and Border Security Act 2019 (c. 3) ("the 2019 Act") in connection with the exercise of examining officers and review officers of functions conferred on them by Schedule 3 to the 2019 Act. The Code revises the preceding code of practice to take account of amendments made to paragraph 12(11) of Schedule 3 to the 2019 Act by section 29 of the National Security Act 2023 (c. 32) ("the 2023 Act").

Paragraph 12(11) of Schedule 3 to the 2019 Act defines "protected material". Section 29 of the 2023 Act amends paragraph 12(11) by removing "confidential business material" (material acquired in the course of trade that is confidential) from the definition of "protected material". This amendment will serve to remove the requirement under paragraph 18(3) of Schedule 3 to the 2019 Act for the Investigatory Powers Commissioner to authorise retention of copies of confidential business material. This authorisation process for confidential business material will be replaced with a requirement for a Counter-Terrorism Police officer of at least the rank of superintendent to authorise the retention and use of such material, which requirement is provided for in the Code.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. A copy of the Code can be found publicly available online at www.gov.uk and hard copies can be obtained by writing to the Borders and Aviation Security Unit, Home Office, 2 Marsham Street, London, SW1P 4DF.

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(**a**) The existing code of practice was brought into force in August 2020 by the Port Examination Codes of Practice and National Security Determinations Guidance Regulations 2020 (S.I. 2020/795).

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