

# PROTECTION OF FREEDOMS ACT 2012

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## EXPLANATORY NOTES

### BACKGROUND

#### **Part 3: Protection of property from disproportionate enforcement action**

##### *Chapter 1: Powers of Entry*

34. A power of entry is a right for a person (usually a state official of a specified description, for example, police officers, local authority trading standards officers, or the enforcement staff of a regulatory body) to enter into a private dwelling, business premises, land or vehicles (or a combination of these) for defined purposes (for example, to search for and seize evidence as part of an investigation, or to inspect the premises to ascertain whether regulatory requirements have been complied with). There are around 1300 separate powers of entry contained in both primary and secondary legislation<sup>1</sup>. A Home Office-led review of powers of entry, initiated by the previous Administration in October 2007, was on-going at the time of the 2010 general election; background information about that review is archived on the Home Office website<sup>2</sup>.

##### *Chapter 2 of Part 3: Vehicles left on land*

35. The Programme for Government (section 30: transport) states that the Government “*will tackle rogue private sector wheel clampers*”.
36. Under the provisions of the Private Security Industry Act 2001 (“the 2001 Act”) persons engaged in parking control on private land by means of the immobilisation (wheel clamping), moving or otherwise restricting the movement of a vehicle are required to be licensed by the Security Industry Authority (“SIA”). Continued concerns about the practices adopted by vehicle immobilisation businesses led the previous Government to publish, in April 2009, a consultation on options for improving the regulation of the clamping industry, including a voluntary code of practice and compulsory membership of a business licensing scheme for all clamping companies. The Crime and Security Act 2010 (“the 2010 Act”), which received Royal Assent on 8 April 2010, contains provisions for the licensing of businesses that undertake vehicle immobilisation activities (see sections 42 to 44 of and Schedule 1 to that Act). The provisions of the 2010 Act have not been commenced.
37. On 17 August 2010 the Government announced proposals to prohibit the wheel clamping of vehicles on private land<sup>3</sup>. The prohibition would take the place of the current licensing of individual operatives engaged in wheel clamping and of the prospective licensing of wheel clamping businesses.

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<sup>1</sup> <http://www.homeoffice.gov.uk/publications/about-us/legislation/powers-entry/>

<sup>2</sup> <http://tna.europarchive.org/20100419081706/http://www.police.homeoffice.gov.uk/operational-policing/powers-pace-codes/powers-of-entry-review/index67d9.html?version=2>

<sup>3</sup> <http://www.homeoffice.gov.uk/media-centre/press-releases/ban-on-wheel-clamping>