

PROTECTION OF FREEDOMS ACT 2012

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 3: Protection of property from disproportionate enforcement action

Chapter 1: Powers of Entry

Section 39 and Schedule 2: Repealing etc. unnecessary or inappropriate powers of entry

189. *Subsection (1)* confers on the appropriate national authority a power, exercisable by order, to repeal any power to enter land or other premises in either primary or secondary legislation which the Minister considers to be either unnecessary or inappropriate. Such an order may also repeal any “associated power”, for example, a power to search or inspect the premises entered into, or to seize material found in such premises; the term is defined in section 46. The power to repeal an associated power may be exercised independently from the power to repeal a power of entry (and vice versa). The term “appropriate national authority” is defined in section 46 as either the Welsh Ministers or a Minister of the Crown; any order made by the Welsh Ministers may only make provision which is within the legislative competence of the National Assembly for Wales.
190. *Subsection (2)* introduces Schedule 2 which directly repeals 15 existing powers of entry that have been identified as unnecessary or that duplicate existing laws. These repeals include a number of antiquated powers of entry relating to agriculture that are no longer required. The list of those powers being repealed also includes a handful of antiquated miscellaneous powers, such as that relating to ‘German Enemy Property’, which are no longer relevant in today’s society.