

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 47: Code of Practice in relation to non-devolved powers of entry

200. *Subsection (1)* places a duty on the Secretary of State to prepare a code of practice in relation to the exercise of powers of entry and associated powers. *Subsection (2)* sets out a non-exhaustive list of matters which may be included in such a code of practice.
201. *Subsection (3)* provides that a code of practice must not make provision in respect of ‘devolved powers of entry and associated powers’ (as defined in *subsection (5)*). A code may make different provisions for different powers of entry and need not contain provision in respect of every power of entry. This ensures that where a power of entry is already subject to an existing code of practice (for example, a code of practice issued under PACE) there is not overlapping guidance in place.
202. *Subsection (4)* requires the Secretary of State, in preparing a code of practice, to consult the Lord Advocate, the representatives of persons entitled to exercise the powers of entry to be covered by the code and such other persons as the Secretary of State considers appropriate.