

FOOD STANDARDS ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 14: Power of entry for monitoring enforcement action

51. *Subsection (1)* provides for the Agency to authorise the use of powers of entry in connection with its enforcement monitoring function. Under *subsection (2)* the decision to grant any authorisation must be given by the Agency itself, or a committee or subcommittee or individual member, and not by the Agency's staff.
52. *Subsection (3)* provides that the authorisation may include limitations, including requiring any authorised person entering premises to follow any necessary food safety precautions. It is expected that in authorising powers of entry, the Agency will require that any reasonable food safety precautions required on the premises should be followed.
53. *Subsection (4)* provides an authorised person with powers to enter and inspect individual premises in order to carry out monitoring work. This gives access to records and data held by the enforcement authority, anyone acting on its behalf, or where enforcement powers are exercisable and also provides for the taking of samples.
54. *Subsection (5)* specifies the types of premises that may be entered under the previous subsection. Besides offices and other premises used by the enforcement authority, this would include any laboratories that provide it with services relevant to its enforcement activity (this would include both in-house and independent laboratories). The Agency would not be expected to publish the details of the performance of the laboratories themselves; nor would its monitoring powers impinge on any service provided by the laboratories to private customers. The third category of premises subject to these powers covers any in which food law enforcement may be carried out (i.e. food shops, food manufacturers, slaughterhouses etc.).
55. *Subsection (6)* provides a power for an authorised person when entering premises to be accompanied by another person. This is needed, for example, to provide for an official of the European Commission engaged in a routine audit of member states' enforcement of the provisions of EC food law to accompany the Agency's authorised officer.
56. *Subsection (7)* requires that the authorised person must provide a receipt on request for any sample taken or document copied.
57. *Subsection (8)* provides for an offence for the same purpose as that described in section 11(7) above but also covering a person accompanying an authorised person under subsection (6).
58. *Subsection (9)* adapts the provisions of this section to monitoring of enforcement activity of the Agency itself or of Ministers or the devolved authorities (for example the enforcement of meat hygiene legislation). The power of entry to premises occupied by the enforcement authority is excluded as it would be unnecessary to give a power to the Agency to authorise a person to enter its own premises.