

*These notes refer to the Food Standards Act 1999 (c.28)  
which received Royal Assent on 11 November 1999*

# FOOD STANDARDS ACT 1999

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 11: Power of entry for persons carrying out observations*

39. *Subsection (1)* provides for observations to be undertaken on the Agency's behalf, by an authorised person, where the Agency is satisfied that they are qualified to do the work. The authorisation for powers of entry to be used must specify the nature of the observations to be carried out. *Subsection (2)* requires that the decision to grant any authorisation to exercise powers of entry must be taken by the Agency itself, or a committee, subcommittee or individual member, and not by members of the Agency's staff.
40. *Subsections (3) to (5)* describe the powers to enter premises, take samples and inspect records, and the conditions under which they must be exercised. The authorisation to exercise powers of entry may include limitations, including requiring any authorised person entering premises to follow any necessary food safety precautions. Samples may include samples from food sources which are defined in the Food Safety Act 1990 as any growing crop or live animal, bird or fish from which food is intended to be derived. Under subsection (5), the authorised person is required to provide a receipt on request for any sample taken or document copied.
41. *Subsection (6)* provides for access to health records of people employed in food production, but only where that information is relevant to food safety. For example, under certain of the food hygiene directives, employers are required to obtain medical certificates assessing their employees' suitability, on health grounds, to be employed in the handling of food, so as to ensure they do not constitute a general risk to public health. This provision would not, however, allow the Agency general access to an individual's personal health records.
42. *Subsection (7)* makes it an offence for any authorised individual to disclose any information he or she has obtained during the course of carrying out observations about any trade secret, other than in the course of his or her duty. This provision does not in any way restrict the provision of any information to the Agency, or affect the Agency's own powers to publish information. It deals with the kind of situation where an authorised person entering premises as part of a duty to carry out observations obtains commercially confidential information and then, acting in a private capacity, passes that information on, for example, to a commercial rival of the business. As such it parallels section 32(7) of the Food Safety Act 1990 and corresponding Northern Ireland legislation.
43. *Subsection (8)*: this provision is similar to that contained in the Food Safety Act 1990 and corresponding Northern Ireland legislation. The current (November 1999) maximum value of a level 5 fine is £5,000.