

FOOD STANDARDS ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 2: Appointment of members etc

11. This deals with the membership of the Agency and the procedures for appointing people to serve.
12. *Subsection (1)* provides for the Agency to have a Chairman, Deputy Chairman and 8-12 other members, of whom one will be appointed by the National Assembly for Wales, two by the Scottish Ministers, and one by the Department of Health and Social Services for Northern Ireland. The rest will be appointed by the Secretary of State for Health.
13. *Subsection (2)* specifies that the appointment of the Chairman and Deputy Chairman will be made jointly by the Secretary of State and his counterparts in the 'appropriate authorities' for Scotland, Wales and Northern Ireland. The 'appropriate authorities' are defined in section 36 of the Act and are:
 - the Secretary of State: in practice, for the purposes of the Food Standards Agency, this will be the Secretary of State for Health;
 - in Scotland, the Scottish Ministers: this is a collective term for the members of the Scottish Executive of the devolved administration. Again, for practical purposes, the Scottish Minister with responsibility for health is expected to take the lead;
 - in Wales, the National Assembly for Wales. Under the Government of Wales Act 1998, powers are vested in the National Assembly as a whole. In practice, those with responsibility for health matters would be expected to lead on the Agency in Wales;
 - in Northern Ireland, the Department of Health and Social Services: in Northern Ireland, powers are vested in departments, acting on behalf of Ministers, or after the Northern Ireland Act 1998 is brought into force, the Northern Ireland Executive.
14. *Subsection (2)* requires the authorities to consult each other before making appointments.
15. *Subsection (3)* provides for the authorities, in making appointments, to try to secure a reasonable balance of relevant skills and experience in the Agency's membership. The members will not be appointed to be representative of any particular interest or sector. *Subsection (3)(b)* requires the appropriate authorities to consider whether the person's financial or other interests - for example shares in a major food manufacturer - are likely to compromise his or her position as a member of the Agency. This does not necessarily mean that any such interests will automatically disqualify a person from appointment as a member. Under paragraph 9 of Schedule 1, the Agency will be obliged to establish and publish a register of the private interests of members: although the Act does not specifically require it, the Agency's procedural rules would be expected to prevent a member with an interest in a particular matter from taking part in discussions on it.