

*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 35: Devolution in Scotland and Northern Ireland*

132. *Section 35* deals with various matters relating to Scotland and Northern Ireland.
133. *Subsection (1)(a)* concerns the power of the Scottish Parliament to call witnesses. Under section 23 of the Scotland Act 1998, the Scottish Parliament has a general power to call witnesses on any subject within the responsibility of members of the Scottish Executive. However, persons outside Scotland can be required to attend and give evidence only in relation to the discharge of functions of the Scottish Administration, of Scottish public authorities or cross-border public authorities (as defined in the Scotland Act). Since the Agency is not a Scottish authority or cross-border public authority, without the provision in section 35(1)(a), the Parliament would have no power to call witnesses from outside Scotland in relation to its activities.
134. *Subsection (1) (b)* concerns the Agency's accounts. Section 70(6) of the Scotland Act prevents Scottish legislation imposing a requirement to prepare accounts on cross-border public authorities, where other legislation already requires them to prepare accounts to be examined either by the Auditor General for Scotland or the Comptroller and Auditor General. Section 35(1)(b) deems the Agency to be a cross-border public authority for the purposes of section 70(6), so the prohibition on Scottish legislation duplicating accounting requirements will apply in relation to the Agency. As a UK non-Ministerial department, the Agency will be subject to audit by the National Audit Office. Schedule 4 sets out the detailed accounts and audit arrangements for the Agency.
135. *Subsection (2)* clarifies that it is within the legislative competence of the Scottish Parliament to remove, alter or confer relevant functions (as defined by *subsection (5)*, i.e. matters within the Agency's general remit) of the Agency within its own jurisdiction. The reservation in paragraph 1 of Schedule 5 to the Scotland Act, which reserves to the UK Government matters relating to the constitution does not apply even though the Agency is constituted as a UK Crown body.
136. *Subsection (3)* makes clear that the legislative competence of the Scottish Parliament is not affected in any other way by this section.
137. *Subsection (4)* similarly provides for the relevant functions of the Agency in Northern Ireland to be recognised as falling within the competence of the devolved authority in Northern Ireland. The Agency's relevant functions in relation to Northern Ireland are to be regarded as functions of a Minister of the Crown and therefore not included as excepted matters by virtue of being part of the Crown.