

Inquiries Act 2005

2005 CHAPTER 12

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An Act to make provision about the holding of inquiries.

[7th April 2005]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:–

Extent

Preamble: United Kingdom

Constitution of inquiry

✔ Law In Force

1 Power to establish inquiry

(1) A Minister may cause an inquiry to be held under this Act in relation to a case where it appears to him that–

- (a) particular events have caused, or are capable of causing, public concern, or
- (b) there is public concern that particular events may have occurred.

(2) In this Act “Minister” means–

- (a) a United Kingdom Minister;
- (b) the Scottish Ministers;
- [(ba) the Welsh Ministers;]¹
- (c) a Northern Ireland Minister;

[...]² [...]²

(3) References in this Act to an inquiry, except where the context requires otherwise, are to an inquiry under this Act.

Notes

¹ Added by Government of Wales Act 2006 c. 32 Sch.10 para.90 (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

² Words repealed by Government of Wales Act 2006 c. 32 Sch.12 para.1 (May 3, 2007: repeal has effect on May 3, 2007 except in relation to functions of the Welsh Ministers, the First Minister, the Counsel General or the

Assembly Commission and relating to the Auditor General or the Comptroller and Auditor General; May 25, 2007 otherwise)

Commencement

s. 1(1)-(3): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 1(1)-(3): United Kingdom

Law In Force

2 No determination of liability

(1) An inquiry panel is not to rule on, and has no power to determine, any person's civil or criminal liability.

(2) But an inquiry panel is not to be inhibited in the discharge of its functions by any likelihood of liability being inferred from facts that it determines or recommendations that it makes.

Commencement

s. 2(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 2(1)-(2): United Kingdom

Law In Force

3 The inquiry panel

(1) An inquiry is to be undertaken either–

- (a) by a chairman alone, or
- (b) by a chairman with one or more other members.

(2) References in this Act to an inquiry panel are to the chairman and any other member or members.

Commencement

s. 3(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 3(1)-(2): United Kingdom

Law In Force

4 Appointment of inquiry panel

(1) Each member of an inquiry panel is to be appointed by the Minister by an instrument in writing.

(2) The instrument appointing the chairman must state that the inquiry is to be held under this Act.

(3) Before appointing a member to the inquiry panel (otherwise than as chairman) the Minister must consult the person he has appointed, or proposes to appoint, as chairman.

Commencement

s. 4(1)-(3): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 4(1)-(3): United Kingdom

Law In Force

5 Setting-up date and terms of reference

(1) In the instrument under section 4 appointing the chairman, or by a notice given to him within a reasonable time afterwards, the Minister must—

(a) specify the date that is to be the setting-up date for the purposes of this Act; and

(b) before that date—

(i) set out the terms of reference of the inquiry;

(ii) state whether or not the Minister proposes to appoint other members to the inquiry panel, and if so how many.

(2) An inquiry must not begin considering evidence before the setting-up date.

(3) The Minister may at any time after setting out the terms of reference under this section amend them if he considers that the public interest so requires.

(4) Before setting out or amending the terms of reference the Minister must consult the person he proposes to appoint, or has appointed, as chairman.

(5) Functions conferred by this Act on an inquiry panel, or a member of an inquiry panel, are exercisable only within the inquiry's terms of reference.

(6) In this Act “terms of reference”, in relation to an inquiry under this Act, means—

(a) the matters to which the inquiry relates;

(b) any particular matters as to which the inquiry panel is to determine the facts;

(c) whether the inquiry panel is to make recommendations;

(d) any other matters relating to the scope of the inquiry that the Minister may specify.

Commencement

s. 5(1)-(6)(d): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 5(1)-(6)(d): United Kingdom

✔ Law In Force

6 Minister's duty to inform Parliament or Assembly

(1) A Minister who proposes to cause an inquiry to be held, or who has already done so without making a statement under this section, must as soon as is reasonably practicable make a statement to that effect to the relevant Parliament or Assembly.

(2) A statement under subsection (1) must state—

- (a) who is to be, or has been, appointed as chairman of the inquiry;
- (b) whether the Minister has appointed, or proposes to appoint, any other members to the inquiry panel, and if so how many;
- (c) what are to be, or are, the inquiry's terms of reference.

(3) Where the terms of reference of an inquiry are amended under section 5(3), the Minister must, as soon as is reasonably practicable, make a statement to the relevant Parliament or Assembly setting out the amended terms of reference.

(4) A statement under this section may be oral or written.

Commencement

s. 6(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 6(1)-(4): United Kingdom

✔ Law In Force

7 Further appointments to inquiry panel

(1) The Minister may at any time (whether before the setting-up date or during the course of the inquiry) appoint a member to the inquiry panel—

- (a) to fill a vacancy that has arisen in the panel (including a vacancy in the position of chairman), or
- (b) to increase the number of members of the panel.

(2) The power to appoint a member under subsection (1)(b) is exercisable only—

- (a) in accordance with a proposal under section 5(1)(b)(ii), or
- (b) with the consent of the chairman.

(3) The power to appoint a replacement chairman may be exercised by appointing a person who is already a member of the inquiry panel.

Commencement

s. 7(1)-(3): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 7(1)-(3): United Kingdom

✔ Law In Force

8 Suitability of inquiry panel

- (1) In appointing a member of the inquiry panel, the Minister must have regard–
- (a) to the need to ensure that the inquiry panel (considered as a whole) has the necessary expertise to undertake the inquiry;
 - (b) in the case of an inquiry panel consisting of a chairman and one or more other members, to the need for balance (considered against the background of the terms of reference) in the composition of the panel.
- (2) For the purposes of subsection (1)(a) the Minister may have regard to the assistance that may be provided to the inquiry panel by any assessor whom the Minister proposes to appoint, or has appointed, under section 11.

Commencement

s. 8(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 8(1)-(2): United Kingdom

✔ Law In Force

9 Requirement of impartiality

- (1) The Minister must not appoint a person as a member of the inquiry panel if it appears to the Minister that the person has–
- (a) a direct interest in the matters to which the inquiry relates, or
 - (b) a close association with an interested party,
- unless, despite the person's interest or association, his appointment could not reasonably be regarded as affecting the impartiality of the inquiry panel.
- (2) Before a person is appointed as a member of an inquiry panel he must notify the Minister of any matters that, having regard to subsection (1), could affect his eligibility for appointment.
- (3) If at any time (whether before the setting-up date or during the course of the inquiry) a member of the inquiry panel becomes aware that he has an interest or association falling within paragraph (a) or (b) of subsection (1), he must notify the Minister.
- (4) A member of the inquiry panel must not, during the course of the inquiry, undertake any activity that could reasonably be regarded as affecting his suitability to serve as such.

Commencement

s. 9(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 9(1)-(4): United Kingdom

☑ Law In Force

10 Appointment of judge as panel member

(1) If the Minister proposes to appoint as a member of an inquiry panel a particular person who is a judge of a description specified in the first column of the following table, he must first consult the person specified in the second column.

<i>Description of judge</i>	<i>Person to be consulted</i>
Lord of Appeal of Ordinary	The senior Lord of Appeal in Ordinary
Judge of the Supreme Court of England and Wales, or Circuit judge	The Lord Chief Justice of England and Wales
Judge of the Court of Session, sheriff principal or sheriff	The Lord President of the Court of Session
Judge of the Supreme Court of Northern Ireland, or county court judge in Northern Ireland	The Lord Chief Justice of Northern Ireland

(2) In this section “sheriff principal” and “sheriff” have the same meaning as in the Sheriff Courts (Scotland) Act 1971 (c. 58).

Commencement

s. 10(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 10(1)-(2): United Kingdom

☑ Law In Force

11 Assessors

(1) One or more persons may be appointed to act as assessors to assist the inquiry panel.

(2) The power to appoint assessors is exercisable—

(a) before the setting-up date, by the Minister;

(b) during the course of the inquiry, by the chairman (whether or not the Minister has appointed assessors).

(3) Before exercising his powers under subsection (2)(a) the Minister must consult the person he proposes to appoint, or has appointed, as chairman.

(4) A person may be appointed as an assessor only if it appears to the Minister or the chairman (as the case requires) that he has expertise that makes him a suitable person to provide assistance to the inquiry panel.

(5) The chairman may at any time terminate the appointment of an assessor, but only with the consent of the Minister in the case of an assessor appointed by the Minister.

Commencement

s. 11(1)-(5): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 11(1)-(5): United Kingdom

✔ Law In Force

12 Duration of appointment of members of inquiry panel

- (1) Subject to the following provisions of this section, a member of an inquiry panel remains a member until the inquiry comes to an end (or until his death if he dies before then).
- (2) A member of an inquiry panel may at any time resign his appointment by notice to the Minister.
- (3) The Minister may at any time by notice terminate the appointment of a member of an inquiry panel—
- (a) on the ground that, by reason of physical or mental illness or for any other reason, the member is unable to carry out the duties of a member of the inquiry panel;
 - (b) on the ground that the member has failed to comply with any duty imposed on him by this Act;
 - (c) on the ground that the member has—
 - (i) a direct interest in the matters to which the inquiry relates, or
 - (ii) a close association with an interested party,such that his membership of the inquiry panel could reasonably be regarded as affecting its impartiality;
 - (d) on the ground that the member has, since his appointment, been guilty of any misconduct that makes him unsuited to membership of the inquiry panel.
- (4) In determining whether subsection (3)(a) applies in a case where the inability to carry out the duties is likely to be temporary, the Minister may have regard to the likely duration of the inquiry.
- (5) The Minister may not terminate a member's appointment under subsection (3)(c) if the Minister was aware of the interest or association in question when appointing him.
- (6) Before exercising his powers under subsection (3) in relation to a member other than the chairman, the Minister must consult the chairman.
- (7) Before exercising his powers under subsection (3) in relation to any member of the inquiry panel, the Minister must—
- (a) inform the member of the proposed decision and of the reasons for it, and take into account any representations made by the member in response, and
 - (b) if the member so requests, consult the other members of the inquiry panel (to the extent that no obligation to consult them arises under subsection (6)).

Commencement

s. 12(1)-(7)(b): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 12(1)-(7)(b): United Kingdom

Law In Force

13 Power to suspend inquiry

(1) The Minister may at any time, by notice to the chairman, suspend an inquiry for such period as appears to him to be necessary to allow for–

- (a) the completion of any other investigation relating to any of the matters to which the inquiry relates, or
- (b) the determination of any civil or criminal proceedings (including proceedings before a disciplinary tribunal) arising out of any of those matters.

(2) The power conferred by subsection (1) may be exercised whether or not the investigation or proceedings have begun.

(3) Before exercising that power the Minister must consult the chairman.

(4) A notice under subsection (1) may suspend the inquiry until a specified day, until the happening of a specified event or until the giving by the Minister of a further notice to the chairman.

(5) Where the Minister gives a notice under subsection (1) he must–

- (a) set out in the notice his reasons for suspending the inquiry;
- (b) lay a copy of the notice, as soon as is reasonably practicable, before the relevant Parliament or Assembly.

(6) A member of an inquiry panel may not exercise the powers conferred by this Act during any period of suspension; but the duties imposed on a member of an inquiry panel by section 9(3) and (4) continue during any such period.

(7) In this section “period of suspension” means the period beginning with the receipt by the chairman of the notice under subsection (1) and ending with whichever of the following is applicable–

- (a) the day referred to in subsection (4);
- (b) the happening of the event referred to in that subsection;
- (c) the receipt by the chairman of the further notice under that subsection.

Commencement

s. 13(1)-(7)(c): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 13(1)-(7)(c): United Kingdom

✔ Law In Force

14 End of inquiry

- (1) For the purposes of this Act an inquiry comes to an end—
 - (a) on the date, after the delivery of the report of the inquiry, on which the chairman notifies the Minister that the inquiry has fulfilled its terms of reference, or
 - (b) on any earlier date specified in a notice given to the chairman by the Minister.
- (2) The date specified in a notice under subsection (1)(b) may not be earlier than the date on which the notice is sent.
- (3) Before exercising his power under subsection (1)(b) the Minister must consult the chairman.
- (4) Where the Minister gives a notice under subsection (1)(b) he must—
 - (a) set out in the notice his reasons for bringing the inquiry to an end;
 - (b) lay a copy of the notice, as soon as is reasonably practicable, before the relevant Parliament or Assembly.

Commencement

s. 14(1)-(4)(b): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 14(1)-(4)(b): United Kingdom

Conversion of inquiries

✔ Law In Force

15 Power to convert other inquiry into inquiry under this Act

- (1) Where—
 - (a) an inquiry (“the original inquiry”) is being held, or is due to be held, by one or more persons appointed otherwise than under this Act,
 - (b) a Minister gives a notice under this section to those persons, and
 - (c) the person who caused the original inquiry to be held consents,the original inquiry becomes an inquiry under this Act as from the date of the notice or such later date as may be specified in the notice (the “date of conversion”).
- (2) The power conferred by this section is exercisable only if the original inquiry relates to a case where it appears to the Minister that—
 - (a) particular events have caused, or are capable of causing, public concern, or
 - (b) there is public concern that particular events may have occurred.
- (3) Before exercising that power the Minister must consult the chairman.
- (4) A notice under this section must—
 - (a) state that, as from the date of conversion, the inquiry is to be held under this Act;
 - (b) in the case of an inquiry panel consisting of more than one member, identify who is to be chairman of the panel;
 - (c) set out what are to be the terms of reference of the inquiry.

(5) The terms of reference set out under subsection (4) may be different from those of the original inquiry.

(6) The Minister may at any time after setting out the terms of reference under this section amend them if he considers that the public interest so requires.

(7) The Minister must consult the chairman before—

- (a) setting out terms of reference that are different from those of the original inquiry, or
- (b) amending the terms of reference under subsection (6).

(8) Section 6 applies, with any necessary modifications, in relation to—

- (a) converting an inquiry under this section, or
- (b) amending an inquiry's terms of reference under subsection (6),

as it applies in relation to causing an inquiry to be held, or amending an inquiry's terms of reference under section 5(3).

Commencement

s. 15(1)-(8)(b): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 15(1)-(8)(b): United Kingdom

Law In Force

16 Inquiries converted under section 15

(1) This section applies where an inquiry (the “original inquiry”) is converted under section 15 into an inquiry under this Act.

(2) The appointment of a person who at the date of conversion is—

- (a) one of the persons holding, or due to hold, the original inquiry (an “original member”),
- (b) an assessor, counsel or solicitor to the inquiry, or
- (c) a person engaged to provide assistance to the inquiry,

continues as if made under this Act, and for the purposes of section 12(5) is treated as made by the Minister on the date of conversion.

(3) Any obligation arising under an order of the original inquiry, or otherwise in connection with that inquiry, is enforceable only as it would be if the original inquiry had not been converted.

(4) No rights or obligations arise under or by virtue of this Act before the date of conversion.

Commencement

s. 16(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 16(1)-(4): United Kingdom

Inquiry proceedings

✔ Law In Force

17 Evidence and procedure

(1) Subject to any provision of this Act or of rules under section 41, the procedure and conduct of an inquiry are to be such as the chairman of the inquiry may direct.

(2) In particular, the chairman may take evidence on oath, and for that purpose may administer oaths.

(3) In making any decision as to the procedure or conduct of an inquiry, the chairman must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).

Commencement

s. 17(1)-(3): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 17(1)-(3): United Kingdom

✔ Law In Force

18 Public access to inquiry proceedings and information

(1) Subject to any restrictions imposed by a notice or order under section 19, the chairman must take such steps as he considers reasonable to secure that members of the public (including reporters) are able—

- (a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;
- (b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel.

(2) No recording or broadcast of proceedings at an inquiry may be made except—

- (a) at the request of the chairman, or
- (b) with the permission of the chairman and in accordance with any terms on which permission is given.

Any such request or permission must be framed so as not to enable a person to see or hear by means of a recording or broadcast anything that he is prohibited by a notice under section 19 from seeing or hearing.

(3) Section 32(2) of the Freedom of Information Act 2000 (c. 36) (certain inquiry records etc exempt from obligations under that Act) does not apply in relation to information contained in documents that, in pursuance of rules under section 41(1)(b) below, have been passed to and are held by a public authority.

(4) Section 37(1)(b) of the Freedom of Information (Scotland) Act 2002 (asp 13) (certain inquiry records etc exempt from obligations under that Act) does not apply in relation to information contained in documents that, in pursuance of rules under section 41(1)(b) below, have been passed to and are held by a Scottish public authority.

Commencement

s. 18(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 18(1)-(4): United Kingdom

✔ Law In Force

19 Restrictions on public access etc

- (1) Restrictions may, in accordance with this section, be imposed on—
 - (a) attendance at an inquiry, or at any particular part of an inquiry;
 - (b) disclosure or publication of any evidence or documents given, produced or provided to an inquiry.
- (2) Restrictions may be imposed in either or both of the following ways—
 - (a) by being specified in a notice (a “restriction notice”) given by the Minister to the chairman at any time before the end of the inquiry;
 - (b) by being specified in an order (a “restriction order”) made by the chairman during the course of the inquiry.
- (3) A restriction notice or restriction order must specify only such restrictions—
 - (a) as are required by any statutory provision, enforceable Community obligation or rule of law, or
 - (b) as the Minister or chairman considers to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard in particular to the matters mentioned in subsection (4).
- (4) Those matters are—
 - (a) the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;
 - (b) any risk of harm or damage that could be avoided or reduced by any such restriction;
 - (c) any conditions as to confidentiality subject to which a person acquired information that he is to give, or has given, to the inquiry;
 - (d) the extent to which not imposing any particular restriction would be likely—
 - (i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or
 - (ii) otherwise to result in additional cost (whether to public funds or to witnesses or others).
- (5) In subsection (4)(b) “harm or damage” includes in particular—
 - (a) death or injury;
 - (b) damage to national security or international relations;
 - (c) damage to the economic interests of the United Kingdom or of any part of the United Kingdom;
 - (d) damage caused by disclosure of commercially sensitive information.

Commencement

s. 19(1)-(5)(d): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 19(1)-(5)(d): United Kingdom

Law In Force

20 Further provisions about restriction notices and orders

(1) Restrictions specified in a restriction notice have effect in addition to any already specified, whether in an earlier restriction notice or in a restriction order.

(2) Restrictions specified in a restriction order have effect in addition to any already specified, whether in an earlier restriction order or in a restriction notice.

(3) The Minister may vary or revoke a restriction notice by giving a further notice to the chairman at any time before the end of the inquiry.

(4) The chairman may vary or revoke a restriction order by making a further order during the course of the inquiry.

(5) Restrictions imposed under section 19 on disclosure or publication of evidence or documents (“disclosure restrictions”) continue in force indefinitely, unless—

(a) under the terms of the relevant notice or order the restrictions expire at the end of the inquiry, or at some other time, or

(b) the relevant notice or order is varied or revoked under subsection (3), (4) or (7).

This is subject to subsection (6).

(6) After the end of the inquiry, disclosure restrictions do not apply to a public authority, or a Scottish public authority, in relation to information held by the authority otherwise than as a result of the breach of any such restrictions.

(7) After the end of an inquiry the Minister may, by a notice published in a way that he considers suitable—

(a) revoke a restriction order or restriction notice containing disclosure restrictions that are still in force, or

(b) vary it so as to remove or relax any of the restrictions.

(8) In this section “restriction notice” and “restriction order” have the meaning given by section 19(2).

Commencement

s. 20(1)-(8): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 20(1)-(8): United Kingdom

✔ Law In Force

21 Powers of chairman to require production of evidence etc

(1) The chairman of an inquiry may by notice require a person to attend at a time and place stated in the notice—

- (a) to give evidence;
- (b) to produce any documents in his custody or under his control that relate to a matter in question at the inquiry;
- (c) to produce any other thing in his custody or under his control for inspection, examination or testing by or on behalf of the inquiry panel.

(2) The chairman may by notice require a person, within such period as appears to the inquiry panel to be reasonable—

- (a) to provide evidence to the inquiry panel in the form of a written statement;
- (b) to provide any documents in his custody or under his control that relate to a matter in question at the inquiry;
- (c) to produce any other thing in his custody or under his control for inspection, examination or testing by or on behalf of the inquiry panel.

(3) A notice under subsection (1) or (2) must—

- (a) explain the possible consequences of not complying with the notice;
- (b) indicate what the recipient of the notice should do if he wishes to make a claim within subsection (4).

(4) A claim by a person that—

- (a) he is unable to comply with a notice under this section, or
- (b) it is not reasonable in all the circumstances to require him to comply with such a notice,

is to be determined by the chairman of the inquiry, who may revoke or vary the notice on that ground.

(5) In deciding whether to revoke or vary a notice on the ground mentioned in subsection (4)(b), the chairman must consider the public interest in the information in question being obtained by the inquiry, having regard to the likely importance of the information.

(6) For the purposes of this section a thing is under a person's control if it is in his possession or if he has a right to possession of it.

Commencement

s. 21(1)-(6): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 21(1)-(6): United Kingdom

✔ Law In Force

22 Privileged information etc

(1) A person may not under section 21 be required to give, produce or provide any evidence or document if—

- (a) he could not be required to do so if the proceedings of the inquiry were civil proceedings in a court in the relevant part of the United Kingdom, or
- (b) the requirement would be incompatible with a Community obligation.

(2) The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in relation to an inquiry as they apply in relation to civil proceedings in a court in the relevant part of the United Kingdom.

Commencement

s. 22(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 22(1)-(2): United Kingdom

Law In Force

23 Risk of damage to the economy

(1) This section applies where it is submitted to an inquiry panel, on behalf of the Crown, the Financial Services Authority or the Bank of England, that there is information held by any person which, in order to avoid a risk of damage to the economy, ought not to be revealed.

(2) The panel must not permit or require the information to be revealed, or cause it to be revealed, unless satisfied that the public interest in the information being revealed outweighs the public interest in avoiding a risk of damage to the economy.

(3) In making a decision under this section the panel must take account of any restriction notice given under section 19 or any restriction order that the chairman has made or proposes to make under that section.

(4) In this section—

“damage to the economy” means damage to the economic interests of the United Kingdom or of any part of the United Kingdom;

“revealed” means revealed to anyone who is not a member of the inquiry panel.

(5) This section does not prevent the inquiry panel from communicating any information in confidence to the Minister.

(6) This section does not affect the rules of law referred to in section 22(2).

Commencement

s. 23(1)-(6): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 23(1)-(6): United Kingdom

Inquiry reports

✔ Law In Force

24 Submission of reports

- (1) The chairman of an inquiry must deliver a report to the Minister setting out–
- (a) the facts determined by the inquiry panel;
 - (b) the recommendations of the panel (where the terms of reference required it to make recommendations).

The report may also contain anything else that the panel considers to be relevant to the terms of reference (including any recommendations the panel sees fit to make despite not being required to do so by the terms of reference).

- (2) In relation to an inquiry that is brought to an end under section 14(1)(b), the duty imposed by subsection (1) to deliver a report is to be read as a power to do so.

- (3) Before making a report under subsection (1) the chairman may deliver to the Minister a report under this subsection (an “interim report”) containing anything that a report under subsection (1) may contain.

- (4) A report of an inquiry must be signed by each member of the inquiry panel.

- (5) If the inquiry panel is unable to produce a unanimous report, the report must reasonably reflect the points of disagreement.

- (6) In subsections (4) and (5) “report” includes an interim report.

Commencement

s. 24(1)-(6): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 24(1)-(6): United Kingdom

✔ Law In Force

25 Publication of reports

- (1) It is the duty of the Minister, or the chairman if subsection (2) applies, to arrange for reports of an inquiry to be published.

- (2) This subsection applies if–
- (a) the Minister notifies the chairman before the setting-up date that the chairman is to have responsibility for arranging publication, or
 - (b) at any time after that date the chairman, on being invited to do so by the Minister, accepts responsibility for arranging publication.

- (3) Subject to subsection (4), a report of an inquiry must be published in full.

- (4) The person whose duty it is to arrange for a report to be published may withhold material in the report from publication to such extent–

- (a) as is required by any statutory provision, enforceable Community obligation or rule of law, or
- (b) as the person considers to be necessary in the public interest, having regard in particular to the matters mentioned in subsection (5).

(5) Those matters are—

- (a) the extent to which withholding material might inhibit the allaying of public concern;
- (b) any risk of harm or damage that could be avoided or reduced by withholding any material;
- (c) any conditions as to confidentiality subject to which a person acquired information that he has given to the inquiry.

(6) In subsection (5)(b) “harm or damage” includes in particular—

- (a) death or injury;
- (b) damage to national security or international relations;
- (c) damage to the economic interests of the United Kingdom or of any part of the United Kingdom;
- (d) damage caused by disclosure of commercially sensitive information.

(7) Subsection (4)(b) does not affect any obligation of the Minister, or any other public authority or Scottish public authority, that may arise under the Freedom of Information Act 2000 (c. 36) or the Freedom of Information (Scotland) Act 2002 (asp 13).

(8) In this section “report” includes an interim report.

Commencement

s. 25(1)-(8): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 25(1)-(8): United Kingdom

Law In Force

26 Laying of reports before Parliament or Assembly

Whatever is required to be published under section 25 must be laid by the Minister, either at the time of publication or as soon afterwards as is reasonably practicable, before the relevant Parliament or Assembly.

Commencement

s. 26: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 26: United Kingdom

Scotland, Wales and Northern Ireland

☑ Law In Force

27 United Kingdom inquiries

- (1) This section applies to an inquiry for which a United Kingdom Minister is responsible.
- (2) The Minister may not, without first consulting the relevant administration, include in the terms of reference anything that would require the inquiry—
- (a) to determine any fact that is wholly or primarily concerned with a Scottish matter or a Welsh matter;
 - (b) to determine any fact that is wholly or primarily concerned with a matter which is, and was at the relevant time, a transferred Northern Ireland matter;
 - (c) to make any recommendation that is wholly or primarily concerned with a Scottish matter, a Welsh matter or a transferred Northern Ireland matter.
- (3) Unless the Minister gives written permission to the chairman, the powers conferred by section 21 are not exercisable—
- (a) in respect of evidence, documents or other things that are wholly or primarily concerned with—
 - (i) a Scottish matter or a Welsh matter, or
 - (ii) a matter which is, and was at the relevant time, a Northern Ireland matter;
 - (b) so as to require any evidence, document or other thing to be given, produced or provided by or on behalf of the Scottish Ministers, the [Welsh Ministers]¹ or a Northern Ireland Minister.
- (4) Before granting permission under subsection (3) the Minister must consult the relevant administration.
- (5) Permission under subsection (3) may be granted subject to such conditions or qualifications as the Minister may specify.
- (6) Permission under subsection (3) is not required for the exercise of powers in circumstances in which subsection (6) of section 30 would prevent the powers from being exercised in the case of an inquiry to which that section applies.
- (7) In this section—
- “Northern Ireland matter” means—
 - (a) a transferred Northern Ireland matter, or
 - (b) a matter falling within section 44(2)(b) of the Northern Ireland Act 1998 (c. 47) (matters in relation to which statutory functions are exercisable by Northern Ireland Ministers etc);
 - “the relevant administration” means whichever of the following the case requires—
 - (a) the Scottish Ministers;
 - (b) the [Welsh Ministers]² ;
 - (c) such one or more Northern Ireland Ministers as appear to the Minister to be appropriate;
 - “the relevant time” means the time when the fact or event in question occurred (or is alleged to have occurred);

“Scottish matter” means a matter that relates to Scotland and is not a reserved matter within the meaning of the Scotland Act 1998 (c. 46);

“transferred Northern Ireland matter” means a matter that relates to Northern Ireland and is a transferred matter within the meaning of the Northern Ireland Act 1998 (c. 47) (or, in relation to any time when Part 1 of the Northern Ireland Constitution Act 1973 (c. 36) was in force, within the meaning of that Act);

“Welsh matter” means a matter in relation to which the [Welsh Ministers have]² functions

Notes

¹ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.91(2) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

² Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.91(3) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

Commencement

s. 27(1)-(7) definition of "Welsh matter": June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 27(1)-(7) definition of "Welsh matter": United Kingdom

Law In Force

28 Scottish inquiries

- (1) This section applies to an inquiry for which the Scottish Ministers are responsible.
- (2) The terms of reference of the inquiry must not require it to determine any fact or to make any recommendation that is not wholly or primarily concerned with a Scottish matter.
- (3) The powers conferred by section 21 are exercisable only—
 - (a) in respect of evidence, documents or other things that are wholly or primarily concerned with a Scottish matter, or
 - (b) for the purpose of inquiring into something that is wholly or primarily a Scottish matter.
- (4) Those powers are not exercisable so as to require any evidence, document or other thing to be given, produced or provided by or on behalf of Her Majesty's Government in the United Kingdom, the [Welsh Ministers]¹ or a Northern Ireland Minister.
- (5) In this section “Scottish matter” means a matter that relates to Scotland and is not a reserved matter (within the meaning of the Scotland Act 1998).

Notes

¹ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.92 (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period

for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

Commencement

s. 28(1)-(5): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 28(1)-(5): United Kingdom

Law In Force

29 Welsh inquiries

- (1) This section applies to an inquiry for which the [Welsh Ministers are]¹ responsible.
 - (2) The terms of reference of the inquiry must not require it to determine any fact or to make any recommendation that is not wholly or primarily concerned with a Welsh matter.
 - (3) The powers conferred by section 21 are exercisable only—
 - (a) in respect of evidence, documents or other things that are wholly or primarily concerned with a Welsh matter, or
 - (b) for the purpose of inquiring into something that is wholly or primarily a Welsh matter.
 - (4) Those powers are not exercisable so as to require any evidence, document or other thing to be given, produced or provided by or on behalf of Her Majesty's Government in the United Kingdom, the Scottish Ministers or a Northern Ireland Minister.
 - (5) In this section “Welsh matter” means a matter in relation to which the [Welsh Ministers have]² functions .
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Notes

- ¹ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.93(2) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))
- ² Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.93(3) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

Commencement

s. 29(1)-(5): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 29(1)-(5): United Kingdom

✔ Law In Force

30 Northern Ireland inquiries

- (1) This section applies to an inquiry for which a Northern Ireland Minister is responsible.
- (2) The terms of reference of the inquiry must not require it—
 - (a) to determine any fact that is not wholly or primarily concerned with a matter which is, and was at the relevant time, a Northern Ireland matter, or
 - (b) to make any recommendation that is not wholly or primarily concerned with a Northern Ireland matter.
- (3) The Minister may not, without the consent of the Secretary of State, include in the terms of reference anything that would require the inquiry to inquire into events occurring—
 - (a) before 2nd December 1999 (the “appointed day” for the purposes of the Northern Ireland Act 1998 (c. 47)), or
 - (b) during a period when section 1 of the Northern Ireland Act 2000 (c. 1) is in force (suspension of devolved government in Northern Ireland).
- (4) The powers conferred by section 21 are exercisable only—
 - (a) in respect of evidence, documents or other things that are wholly or primarily concerned with a matter which is, and was at the relevant time, a Northern Ireland matter, or
 - (b) for the purpose of inquiring into something that is, and was at the relevant time, wholly or primarily a Northern Ireland matter.
- (5) Those powers are not exercisable so as to require any evidence, document or other thing to be given, produced or provided by or on behalf of Her Majesty's Government in the United Kingdom, the Scottish Ministers or the [Welsh Ministers]¹ .
- (6) Powers conferred by section 21 that would not be exercisable but for subsection (8)(b) below are not exercisable in circumstances in which [any of subsections (3) to (5) of section 44 of the Northern Ireland Act 1998]² (power of Assembly to call for witnesses and documents) would prevent the power in subsection (1) of that section from being exercised.
- (7) The inquiry must not consider evidence or make recommendations about any matter falling within paragraph 17 of Schedule 2 to the Northern Ireland Act 1998 (excepted matters: national security etc).
- (8) In this section “Northern Ireland matter” means—
 - (a) a matter that relates to Northern Ireland and is a transferred matter within the meaning of the Northern Ireland Act 1998 (or, in relation to any time when Part 1 of the Northern Ireland Constitution Act 1973 (c. 36) was in force, within the meaning of that Act), or
 - (b) a matter falling within section 44(2)(b) of the Northern Ireland Act 1998 (matters in relation to which statutory functions are exercisable by Northern Ireland Ministers etc).
- (9) In this section “the relevant time” means the time when the fact or event in question occurred (or is alleged to have occurred).

Notes

¹ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.94 (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

- ² Words substituted by Northern Ireland (Miscellaneous Provisions) Act 2006 c. 33 Sch.4(3) para.14 (March 11, 2009)

Commencement

s. 30(1)-(9): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 30(1)-(9): United Kingdom

Law In Force

31 The relevant part of the United Kingdom and the applicable rules

(1) The Minister responsible for an inquiry must specify whether the relevant part of the United Kingdom in relation to the inquiry is–

- (a) England and Wales,
- (b) Scotland, or
- (c) Northern Ireland.

(2) The Ministers responsible for an inquiry that–

- (a) is one to which section 33 applies, and
- (b) would (but for this subsection) be subject to more than one set of rules,

must specify which of those sets, or what combination of rules from more than one of those sets, is to apply.

(3) In subsection (2) “set of rules” means the rules made by virtue of a particular paragraph of section 41(3).

(4) If in the case of an inquiry (other than one to which section 33 applies) for which a United Kingdom Minister is responsible–

- (a) the Minister specifies that the relevant part of the United Kingdom is Scotland,
- (b) the Minister specifies that the relevant part of the United Kingdom is England and Wales, and the inquiry is expected to be held wholly or partly in Wales, or
- (c) the Minister specifies that the relevant part of the United Kingdom is Northern Ireland,

he may if he thinks fit specify that some or all of the rules that are to apply are rules made by virtue of paragraph (b), (c) or (d) (as appropriate) of section 41(3).

(5) The relevant part of the United Kingdom and, where subsection (2) or (4) applies, the applicable rules must be specified no later than the setting-up date or, as the case may be, the date of conversion.

Commencement

s. 31(1)-(5): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 31(1)-(5): United Kingdom

Inquiries for which more than one Minister responsible

Law In Force

32 Joint inquiries

- (1) The power under section 1 to cause an inquiry to be held, or to convert an inquiry under section 15, is exercisable by two or more Ministers acting jointly.
- (2) In this Act “joint inquiry” means an inquiry for which by virtue of this section, or section 34, two or more Ministers are responsible.
- (3) In the case of a joint inquiry—
 - (a) powers conferred on a Minister by any provision of this Act (except section 41) are exercisable by the Ministers in question acting jointly;
 - (b) duties imposed by this Act on a Minister are joint duties of those Ministers.
- (4) Subsection (3)(b), so far as relating to obligations under section 39, is subject to any different arrangements that may be agreed by the Ministers in question.

Commencement

s. 32(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 32(1)-(4): United Kingdom

Law In Force

33 Inquiries involving more than one administration

- (1) This section applies to a joint inquiry for which the Ministers responsible (“the relevant Ministers”) are not all United Kingdom Ministers and are not all Northern Ireland Ministers.
- (2) A limitation imposed by section 27(2), 28(2), 29(2) or 30(2) or (3) on the terms of reference of an inquiry for which a particular Minister is responsible has effect only to the extent that it applies in relation to all of the relevant Ministers.
- (3) A limitation imposed by section 27(3), 28(3) or (4), 29(3) or (4) or 30(4) or (5) on the powers conferred on the chairman of an inquiry for which a particular Minister is responsible has effect only to the extent that it applies in relation to all of the relevant Ministers.
- (4) Subsections (6) and (7) of section 30 do not apply if at least one of the relevant Ministers is a United Kingdom Minister.

Commencement

s. 33(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 33(1)-(4): United Kingdom

✔ Law In Force

34 Change of responsibility for inquiry

- (1) Each of the Ministers concerned may agree in writing that, as from a date specified in the agreement (“the specified date”), one or more Ministers should become, or cease to be, responsible for an inquiry.
- (2) Where an agreement is made under this section—
- (a) in relation to any time on or after the specified date, references in this Act to the Minister responsible for the inquiry are to be read in accordance with the agreement;
 - (b) each of the Ministers concerned has obligations under section 39 only in relation to the period when that Minister was or is responsible for the inquiry.
- (3) Subsection (2)(b) is subject to any different arrangements that may be specified in the agreement under this section.
- (4) Where as a result of an agreement under this section the terms of reference of the inquiry fail to comply with an applicable limitation imposed by section 27(2), 28(2), 29(2) or 30(2) or (3), they are to be read subject to such modifications as are necessary to make them comply with the limitation.
- (5) In this section “the Ministers concerned” means the Ministers responsible for the inquiry before the specified date together with any who, under the agreement, are to become responsible for it as from that date.

Commencement

s. 34(1)-(5): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 34(1)-(5): United Kingdom

Supplementary

✔ Law In Force

35 Offences

- (1) A person is guilty of an offence if he fails without reasonable excuse to do anything that he is required to do by a notice under section 21.
- (2) A person is guilty of an offence if during the course of an inquiry he does anything that is intended to have the effect of—
- (a) distorting or otherwise altering any evidence, document or other thing that is given, produced or provided to the inquiry panel, or
 - (b) preventing any evidence, document or other thing from being given, produced or provided to the inquiry panel,
- or anything that he knows or believes is likely to have that effect.
- (3) A person is guilty of an offence if during the course of an inquiry—
- (a) he intentionally suppresses or conceals a document that is, and that he knows or believes to be, a relevant document, or

- (b) he intentionally alters or destroys any such document.
- For the purposes of this subsection a document is a “relevant document” if it is likely that the inquiry panel would (if aware of its existence) wish to be provided with it.
- (4) A person does not commit an offence under subsection (2) or (3) by doing anything that he is authorised or required to do—
- (a) by the inquiry panel, or
 - (b) by virtue of section 22 or any privilege that applies.
- (5) Proceedings in England and Wales or in Northern Ireland for an offence under subsection (1) may be instituted only by the chairman.
- (6) Proceedings for an offence under subsection (2) or (3) may be instituted—
- (a) in England and Wales, only by or with the consent of the Director of Public Prosecutions;
 - (b) in Northern Ireland, only by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (7) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level three on the standard scale or to imprisonment for a term not exceeding the relevant maximum, or to both.
- (8) “The relevant maximum” is—
- (a) in England and Wales, 51 weeks;
 - (b) in Scotland and Northern Ireland, six months.

Commencement

s. 35(1)-(8)(b): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 35(1)-(8)(b): United Kingdom

Law In Force

36 Enforcement by High Court or Court of Session

- (1) Where a person—
- (a) fails to comply with, or acts in breach of, a notice under section 19 or 21 or an order made by an inquiry, or
 - (b) threatens to do so,
- the chairman of the inquiry, or after the end of the inquiry the Minister, may certify the matter to the appropriate court.
- (2) The court, after hearing any evidence or representations on a matter certified to it under subsection (1), may make such order by way of enforcement or otherwise as it could make if the matter had arisen in proceedings before the court.
- (3) In this section “the appropriate court” means the High Court or, in the case of an inquiry in relation to which the relevant part of the United Kingdom is Scotland, the Court of Session.

Commencement

s. 36(1)-(3): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 36(1)-(3): United Kingdom

Law In Force

37 Immunity from suit

(1) No action lies against—

- (a) a member of an inquiry panel,
- (b) an assessor, counsel or solicitor to an inquiry, or
- (c) a person engaged to provide assistance to an inquiry,

in respect of any act done or omission made in the execution of his duty as such, or any act done or omission made in good faith in the purported execution of his duty as such.

(2) Subsection (1) applies only to acts done or omissions made during the course of the inquiry, otherwise than during any period of suspension (within the meaning of section 13).

(3) For the purposes of the law of defamation, the same privilege attaches to—

- (a) any statement made in or for the purposes of proceedings before an inquiry (including the report and any interim report of the inquiry), and
- (b) reports of proceedings before an inquiry,

as would be the case if those proceedings were proceedings before a court in the relevant part of the United Kingdom.

Commencement

s. 37(1)-(3)(b): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 37(1)-(3)(b): United Kingdom

Law In Force

38 Time limit for applying for judicial review

(1) An application for judicial review of a decision made—

- (a) by the Minister in relation to an inquiry, or
- (b) by a member of an inquiry panel,

must be brought within 14 days after the day on which the applicant became aware of the decision, unless that time limit is extended by the court.

(2) Subsection (1) does not apply where an earlier time limit applies by virtue of Civil Procedure Rules or rules made under section 55 of the Judicature (Northern Ireland) Act 1978 (c. 23).

(3) Subsection (1) does not apply to—

- (a) a decision as to the contents of the report of the inquiry;

(b) a decision of which the applicant could not have become aware until the publication of the report.

In this subsection “report” includes any interim report.

(4) This section does not extend to Scotland.

Commencement

s. 38(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 38(1)-(4): United Kingdom

Law In Force

39 Payment of inquiry expenses by Minister

(1) The Minister may agree to pay to—

- (a) the members of the inquiry panel,
- (b) any assessor, counsel or solicitor to the inquiry, and
- (c) any person engaged to provide assistance to the inquiry,

such remuneration and expenses as the Minister may determine.

(2) The Minister must pay any amounts awarded under section 40.

(3) The Minister must meet any other expenses incurred in holding the inquiry, including the cost of publication of the report and any interim report of the inquiry (whether or not the chairman has responsibility for arranging publication).

(4) Subsection (5) applies where the Minister—

- (a) believes that there are matters in respect of which an inquiry panel is acting outside the inquiry's terms of reference, or is likely to do, and
- (b) gives a notice to the chairman specifying those matters and the reasons for his belief.

(5) Subject to provision made by rules under section 41, the Minister is not obliged under this section or otherwise to pay any amounts or to meet any expenses in so far as they are referable—

- (a) to any matters certified by the Minister, in accordance with such provision, to be outside the inquiry's terms of reference, and
- (b) to any period falling after the date on which the notice under subsection (4) was given.

(6) Within a reasonable time after the end of the inquiry the Minister must publish the total amount of what he has paid (or remains liable to pay) under this section.

Commencement

s. 39(1)-(6): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 39(1)-(6): United Kingdom

✔ Law In Force

40 Expenses of witnesses etc

- (1) The chairman may award reasonable amounts to a person—
 - (a) by way of compensation for loss of time, or
 - (b) in respect of expenses properly incurred, or to be incurred, in attending, or otherwise in relation to, the inquiry.
- (2) The power to make an award under this section includes power, where the chairman considers it appropriate, to award amounts in respect of legal representation.
- (3) A person is eligible for an award under this section only if he is—
 - (a) a person attending the inquiry to give evidence or to produce any document or other thing, or
 - (b) a person who, in the opinion of the chairman, has such a particular interest in the proceedings or outcome of the inquiry as to justify such an award.
- (4) The power to make an award under this section is subject to such conditions or qualifications as may be determined by the Minister and notified by him to the chairman.

Commencement

s. 40(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 40(1)-(4): United Kingdom

General

✔ Law In Force

41 Rules

- (1) The appropriate authority may make rules dealing with—
 - (a) matters of evidence and procedure in relation to inquiries;
 - (b) the return or keeping, after the end of an inquiry, of documents given to or created by the inquiry;
 - (c) awards under section 40.
- (2) Rules under subsection (1)(c) may in particular—
 - (a) make provision as to how and by whom the amount of awards is to be assessed, including provision allowing the assessment to be undertaken by the inquiry panel or by such other person as the panel may nominate;
 - (b) make provision for review of an assessment at the instance of a person dissatisfied with it.
- (3) The appropriate authority is—
 - (a) the Lord Chancellor, as regards inquiries for which a United Kingdom Minister is responsible;
 - (b) the Scottish Ministers, as regards inquiries for which they are responsible;
 - (c) the [Welsh Ministers]¹, as regards inquiries for which [they are]² responsible;

- (d) the First Minister and deputy First Minister acting jointly, as regards inquiries for which a Northern Ireland Minister is responsible.
- (4) The power to make rules under this section is exercisable–
- (a) in the case of rules made by the Lord Chancellor, the [Welsh Ministers]³ or the Scottish Ministers, by statutory instrument;
 - (b) in the case of rules made by the First Minister and deputy First Minister, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (5) A statutory instrument made under this section is subject to annulment–
- (a) if made by the Lord Chancellor, in pursuance of a resolution of either House of Parliament;
 - [(aa) if made by the Welsh Ministers, in pursuance of a resolution of the National Assembly for Wales;]⁴
 - (b) if made by the Scottish Ministers, in pursuance of a resolution of the Scottish Parliament.
- (6) A statutory rule made under this section is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))).

Notes

- ¹ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.95(2)(a) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))
- ² Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.95(2)(b) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))
- ³ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.95(3) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))
- ⁴ Added by Government of Wales Act 2006 c. 32 Sch.10 para.95(4) (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

Commencement

s. 41(1)-(6): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 41(1)-(6): United Kingdom

Law In Force

42 Notices etc

A notice or notification under this Act must be given in writing.

Commencement

s. 42: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 42: United Kingdom

Law In Force

43 Interpretation**(1) In this Act–**

“assessor” means an assessor appointed under section 11;

“chairman”, in relation to an inquiry, means the chairman of the inquiry;

“the course of the inquiry” and similar expressions are to be read in accordance with subsection (2);

“date of conversion” has the meaning given by section 15(1);

“document” includes information recorded in any form (and see subsection (3));

“event”, except in sections 13 and 46, includes any conduct or omission;

“inquiry”, except where the context requires otherwise, means an inquiry under this Act;

“inquiry panel” is to be read in accordance with section 3(2);

“interested party”, in relation to an inquiry, means a person with a particularly significant interest in the proceedings or outcome of the inquiry;

“interim report” means a report under section 24(3);

“joint inquiry” has the meaning given by section 32(2);

“member”, in relation to an inquiry panel, includes the chairman;

“Minister” is to be read in accordance with section 1(2) (and see subsection (4) below);

“Northern Ireland Minister” includes the First Minister and the deputy First Minister acting jointly;

“public authority” has the same meaning as in the Freedom of Information Act 2000 (c. 36);

“the relevant Parliament or Assembly” means whichever of the following is or are applicable–

(a) in the case of an inquiry for which the Treasury is responsible, the House of Commons;

(b) in the case of an inquiry for which any other United Kingdom Minister is responsible, or one for which the Secretary of State exercising functions by virtue of section 45(2) is responsible, the House of Parliament of which that minister is a member;

(c) in the case of an inquiry for which the Scottish Ministers are responsible, the Scottish Parliament;

(d) in the case of an inquiry for which the [Welsh Ministers are responsible, the National Assembly for Wales]¹ ;

(e) in the case of an inquiry for which a Northern Ireland Minister is responsible, the Northern Ireland Assembly;

“the relevant part of the United Kingdom”, in relation to an inquiry, means the part specified under section 31(1);

“report” means a report under section 24(1);

- “responsible”, in relation to an inquiry, is to be read in accordance with subsection (5);
- “Scottish public authority” has the same meaning as in the Freedom of Information (Scotland) Act 2002 (asp 13);
- “setting-up date” means the date specified under section 5(1)(a);
- “statutory provision” means a provision contained in, or having effect under, any enactment, Act of the Scottish Parliament or Northern Ireland legislation;
- “terms of reference”, in relation to an inquiry under this Act, has the meaning given by section 5(6);
- “United Kingdom Minister”–
- (a) means the holder of a Ministerial office specified in Part 1, 2 or 3 of Schedule 1 to the Ministerial and other Salaries Act 1975 (c. 27) or a Parliamentary Secretary;
 - (b) also includes the Treasury.

But a reference to a United Kingdom Minister does not include a reference to the Secretary of State discharging functions by virtue of section 45(2).

(2) References in this Act to the course of an inquiry are to the period beginning with the setting-up date, or (in the case of an inquiry converted under section 15) the date of conversion, and ending with the date on which the inquiry comes to an end (which is given by section 14).

(3) References in this Act to producing or providing a document, in relation to information recorded otherwise than in legible form, are to be read as references to producing or providing a copy of the information in a legible form.

(4) References in this Act to “the Minister”, in relation to an inquiry, are to the Minister or Ministers responsible for the inquiry.

(5) For the purposes of this Act a Minister is “responsible” for an inquiry if he is the Minister, or one of the Ministers, by whom it was caused to be held under section 1 or converted under section 15.

This is subject to section 34(2)(a).

Notes

- ¹ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.96 (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

Commencement

s. 43(1)-(5): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 43(1)-(5): United Kingdom

Law In Force

44 Transitory, transitional and saving provisions

(1) Section 15 applies whether the original inquiry was caused to be held before or after the commencement of that section.

(2) For the purposes of that section, an inquiry appointed otherwise than under this Act includes a tribunal of inquiry appointed in pursuance of resolutions of both Houses of Parliament under section 1 of the Tribunals of Inquiry (Evidence) Act 1921 (c. 7).

(3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44), the reference in section 35(8)(a) above to 51 weeks is to be read as a reference to six months.

(4) This Act does not affect—

- (a) any power of Her Majesty to establish a Royal Commission, or
- (b) except as provided by section 15 or by sections 46 to 49 (and Schedules 1 to 3), any power of a Minister or other person (whether under a statutory provision or otherwise) to cause an inquiry to be held otherwise than under this Act.

(5) The repeal by this Act of any statutory provision under which an inquiry has been caused to be held does not affect any power or duty conferred or imposed in respect of the inquiry, and accordingly—

- (a) the inquiry may continue,
- (b) any report may be submitted and published, and
- (c) any proceedings arising out of the inquiry may be taken or continued,

as if the enactment had not been repealed.

Commencement

s. 44(1)-(5)(c): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 44(1)-(5)(c): United Kingdom

Law In Force

45 Suspension of devolved government in Northern Ireland

(1) This section applies in relation to any time when section 1 of the Northern Ireland Act 2000 (c. 1) (suspension of devolved government in Northern Ireland) is in force.

(2) Functions conferred by this Act on a Northern Ireland Minister may be discharged by the Secretary of State (and a reference to an inquiry for which a Northern Ireland Minister is responsible is to be read accordingly).

In relation to such functions, this subsection applies in place of paragraph 4(1)(a) to (c) of the Schedule to the Northern Ireland Act 2000.

(3) A requirement under this Act to consult any Northern Ireland Minister is to be read as a requirement to consult the Secretary of State.

(4) In the case of rules under section 41 made by the Secretary of State by virtue of subsection (3)(d) of that section and subsection (2) above, subsections (4)(a) and (5)(a) of that section apply in relation to the Secretary of State as they apply in relation to the Lord Chancellor.

Commencement

s. 45(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 45(1)-(4): United Kingdom

Amendments etc

Law In Force

46 Inquiries under the Financial Services and Markets Act 2000

(1) Section 14 of the Financial Services and Markets Act 2000 (c. 8) (cases in which the Treasury may arrange independent inquiries) is amended as follows.

(2) In subsection (2)(b)(i), after “by this Act” there is inserted “, or by any previous statutory provision,”.

(3) In subsection (3)(b), for the words after “but for a serious failure” there is substituted

“in–

- (i) the regulatory system established by Part 6 or by any previous statutory provision concerned with the official listing of securities; or
- (ii) the operation of that system.”

(4) After subsection (5) there is inserted–

“(5A) “Event” does not include any event occurring before 1st December 2001 (but no such limitation applies to the reference in subsection (4) to surrounding circumstances).”

Commencement

s. 46(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 46(1)-(4): United Kingdom

Law In Force

47 Inquiries etc under Northern Ireland legislation

(1) For section 23 of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) (inquiries and investigations) there is substituted–

“23 Inquiries and investigations

The provisions of Schedule A1 to this Act shall have effect in relation to any local or other inquiry or any investigation which a Minister or Northern Ireland department causes to be held or made under any enactment passed or made–

- (a) after the commencement of this Act, and
- (b) before the commencement of section 47 of the Inquiries Act 2005.”

(2) The Schedule set out in Schedule 1 to this Act is inserted into that Act as Schedule A1.

Commencement

s. 47(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 47(1)-(2): United Kingdom

Law In Force

48 Minor and consequential amendments

(1) Schedule 2 (minor and consequential amendments) has effect.

(2) In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) a reference to an Act that is amended by Schedule 2 to this Act is to be read as referring to that Act as so amended.

Commencement

s. 48(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 48(1)-(2): United Kingdom

Law In Force

49 Repeals and revocations

(1) The Tribunals of Inquiry (Evidence) Act 1921 (c. 7) is repealed.

(2) The provisions set out in Schedule 3 are repealed or revoked to the extent specified.

Commencement

s. 49(1)-(2): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 49(1)-(2): United Kingdom

Final provisions

Law In Force

50 Crown application

This Act and any provisions made under it bind the Crown (but do not affect Her Majesty in her personal capacity or in right of Her Duchy of Lancaster or the Duke of Cornwall).

Commencement

s. 50: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

s. 50: United Kingdom

Law In Force

51 Commencement

(1) The preceding provisions of this Act come into force on such day as the Lord Chancellor may appoint by order made by statutory instrument.

(2) Before making an order under this section the Lord Chancellor must consult the Scottish Ministers, the [Welsh Ministers]¹ and the First Minister and deputy First Minister.

(3) An order under this section—

(a) may include any transitory, transitional or saving provision that the Secretary of State considers necessary or expedient;

(b) may appoint different days for different purposes.

Notes

¹ Words substituted by Government of Wales Act 2006 c. 32 Sch.10 para.97 (May 3, 2007 immediately after the ordinary election as specified in 2006 c.32 s.161(1); May 25, 2007 immediately after the end of the initial period for purposes of functions of the Welsh Ministers, the First Minister, the Counsel General and the Assembly Commission and in relation to the Auditor General and the Comptroller and Auditor General as specified in 2006 c.32 s.161(4)-(5))

Commencement

s. 51(1)-(3)(b): April 7, 2005 (2005 c. 12 s. 51)

Extent

s. 51(1)-(3)(b): United Kingdom

Law In Force

52 Extent

This Act extends to the whole of the United Kingdom.

Commencement

s. 52: April 7, 2005 (2005 c. 12 s. 51)

Extent

s. 52: United Kingdom

Law In Force

53 Short title

This Act may be cited as the Inquiries Act 2005.

Commencement

s. 53: April 7, 2005 (2005 c. 12 s. 51)

Extent

s. 53: United Kingdom

SCHEDULE 1**PROVISIONS APPLICABLE TO INQUIRIES ETC UNDER NORTHERN IRELAND
LEGISLATION****Section 47**

Law In Force

The following is the Schedule inserted into the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))—

“SCHEDULE A1**PROVISIONS APPLICABLE TO INQUIRIES AND INVESTIGATIONS****1 Introductory**

In this Schedule—

“the inquiry” means any inquiry or investigation in relation to which, by virtue of section 23 of this Act, the provisions of this Schedule apply;

“the Department” means the Minister or Northern Ireland department causing the inquiry to be held.

2 Appointment of person to hold inquiry

The Department shall appoint a person to hold the inquiry and to report thereon to the Department.

3 Notification of time and place of inquiry

Notification shall be sent to any persons appearing to the Department or the person appointed to hold the inquiry to be interested of the time when, and the place where, the inquiry is to be held.

4 Powers to require persons to give evidence etc.

(1) Subject to sub-paragraphs (2) and (3), the person appointed to hold the inquiry may by notice require any person—

- (a) to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which relate to any matter in question at the inquiry; or
- (b) to furnish, within such reasonable period as is specified in the notice, such information relating to any matter in question at the inquiry as the person appointed to hold the inquiry may think fit, and as the person so required is able to furnish.

(2) A person shall not be required, in obedience to such a notice, to attend at any place which is more than 16 kilometres from the place where he resides unless the necessary expenses are paid or tendered to him.

(3) Nothing in this paragraph shall empower the person appointed to hold the inquiry to require any person to produce any book or document, or to answer any question, which he would be entitled, on the ground of privilege or otherwise, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

5 Oaths and statements

The person appointed to hold the inquiry may administer oaths and examine witnesses on oath, and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

6 Offences

Any person who—

- (a) refuses or wilfully neglects to attend in obedience to a notice under paragraph 4, or to give evidence; or
- (b) wilfully alters, suppresses, conceals or destroys or refuses to produce any book or document which he may be required to produce by any such notice; or
- (c) refuses or deliberately neglects to furnish any information which he is required to furnish under paragraph 4(1)(b);

shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 2 on the standard scale.

7 Expenses

(1) The expenses incurred by the Department in relation to the inquiry (including such sum as the Department may, with the approval of the Department of Finance and Personnel,

determine in respect of the services of any officer engaged in the inquiry) shall be paid by such of the parties to the inquiry in such proportions as the Department may order.

(2) The Department may make orders as to the expenses incurred by the parties appearing at the inquiry and as to the parties by whom such expenses shall be paid.

(3) Any order made by the Department under sub-paragraph (1) or (2) may, on the application of any party to the inquiry, be made a rule of the High Court.”

Commencement

Sch. 1 para. 1: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 1 para. 1: United Kingdom

SCHEDULE 2**MINOR AND CONSEQUENTIAL AMENDMENTS****Section 48****PART 1****ACTS OF PARLIAMENT***Regulation of Railways Act 1871 (c. 78)* Law In Force**1**

Section 7 of the Regulation of Railways Act 1871 (inquiry into accidents and formal investigation in serious cases) is omitted.

Commencement

Sch. 2(1) para. 1: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 1: United Kingdom

Ministry of Transport Act 1919 (c. 50) Law In Force**2**

Section 20 of the Ministry of Transport Act 1919 (power to hold inquiries) is omitted.

Commencement

Sch. 2(1) para. 2: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 2: United Kingdom

Road and Rail Traffic Act 1933 (c. 53)

Law In Force

3

Section 47 of the Road and Rail Traffic Act 1933 (inquiries by Minister) is omitted.

Commencement

Sch. 2(1) para. 3: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 3: United Kingdom

Agricultural Marketing Act 1958 (c. 47)

Law In Force

4

In section 26 of the Agricultural Marketing Act 1958 (constitution and functions of Agricultural Marketing Reorganisation Commissions) subsections (6) to (8) are omitted.

Commencement

Sch. 2(1) para. 4: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 4: United Kingdom

Mental Health Act 1959 (c. 72)

Law In Force

5

Section 143 of the Mental Health Act 1959 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 5: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 5: United Kingdom

Transport Act 1962 (c. 46)

Law In Force

6

Section 90 of the Transport Act 1962 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 6: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 6: United Kingdom

National Health Service Act 1977 (c. 49)

Law In Force

7

Section 84 of the National Health Service Act 1977 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 7: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 7: United Kingdom

Public Passenger Vehicles Act 1981 (c. 14)

Law In Force

8

In the Public Passenger Vehicles Act 1981, sections 76 (general power to hold inquiries) and 77 (general provisions as to inquiries) are omitted.

Commencement

Sch. 2(1) para. 8: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 8: United Kingdom

Mental Health Act 1983 (c. 20)

Law In Force

9

Section 125 of the Mental Health Act 1983 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 9: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 9: United Kingdom

Road Traffic Regulation Act 1984 (c. 27)

Law In Force

10

In the Road Traffic Regulation Act 1984, sections 128 (power to hold inquiries) and 129 (general provisions as to inquiries) are omitted.

Commencement

Sch. 2(1) para. 10: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 10: United Kingdom

Road Traffic Act 1988 (c. 52)

Law In Force

11

Section 179 of the Road Traffic Act 1988 (general power to hold inquiries) is omitted.

Commencement

Sch. 2(1) para. 11: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 11: United Kingdom

Children Act 1989 (c. 41)

Law In Force

12

Section 81 of the Children Act 1989 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 12: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 12: United Kingdom

Further and Higher Education Act 1992 (c. 13)

Law In Force

13

In section 57 of the Further and Higher Education Act 1992 (intervention) subsection (9) is omitted.

Commencement

Sch. 2(1) para. 13: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 13: United Kingdom

Police Act 1996 (c. 16)

Law In Force

14

Section 49 of the Police Act 1996 (local inquiries) is omitted.

Commencement

Sch. 2(1) para. 14: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 14: United Kingdom

Education Act 1996 (c. 56)

Law In Force

15

Section 507 of the Education Act 1996 (power to direct local inquiries) is omitted.

Commencement

Sch. 2(1) para. 15: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 15: United Kingdom

Police Act 1997 (c. 50)

Law In Force

16

In the Police Act 1997, sections 34 (National Criminal Intelligence Service: inquiries) and 79 (National Crime Squad: inquiries) are omitted.

Commencement

Sch. 2(1) para. 16: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 16: United Kingdom

Police (Northern Ireland) Act 1998 (c. 32)

Law In Force

17

Section 44 of the Police (Northern Ireland) Act 1998 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 17: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 17: United Kingdom

Protection of Children Act 1999 (c. 14)

R Repealed

18 [...]¹

Notes

¹ Repealed by Safeguarding Vulnerable Groups Act 2006 c. 47 Sch.10 para.1 (October 12, 2009 as SI 2009/1611)

Care Standards Act 2000 (c. 14)

R Repealed

19 [...]¹

Notes

¹ Repealed by Safeguarding Vulnerable Groups Act 2006 c. 47 Sch.10 para.1 (October 12, 2009 as SI 2009/1611)

Regulation of Investigatory Powers Act 2000 (c. 23)

✓ Law In Force

20

(1) Section 17 of the Regulation of Investigatory Powers Act 2000 (exclusion of matters from legal proceedings) is amended as follows.

(2) In subsection (1), after “legal proceedings” there is inserted “or Inquiries Act proceedings”.

(3) In subsection (4), for “In this section “intercepted communications” means” there is substituted

“In this section—

“Inquiries Act proceedings” means proceedings of an inquiry under the Inquiries Act 2005;

“intercepted communications” means”.

Commencement

Sch. 2(1) para. 20(1)-(3): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 20(1)-(3): United Kingdom

Law In Force

21

(1) Section 18 of that Act (exceptions to section 17) is amended as follows.

(2) In subsection (5) the word “legal” is omitted.

(3) In subsection (7), after paragraph (b) there is inserted

“; or

(c) a disclosure to the panel of an inquiry held under the Inquiries Act 2005 in the course of which the panel has ordered the disclosure to be made to the panel alone.”

(4) After subsection (8) there is inserted–

“(8A) The panel of an inquiry shall not order a disclosure under subsection (7)(c) except where it is satisfied that the exceptional circumstances of the case make the disclosure essential to enable the inquiry to fulfil its terms of reference.”

Commencement

Sch. 2(1) para. 21(1)-(4): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 21(1)-(4): United Kingdom

Police (Northern Ireland) Act 2000 (c. 32)

Law In Force

22

In section 60 of the Police (Northern Ireland) Act 2000 (inquiry by Board following report by Chief Constable), for subsection (14) there is substituted–

“(14) “Paragraphs 3 to 6 of Schedule A1 to the Interpretation Act (Northern Ireland) 1954 (provisions applicable to inquiries etc. under Northern Ireland legislation) shall apply to an inquiry under this section with the substitution for references to the Department of references to the person conducting the inquiry.”

Commencement

Sch. 2(1) para. 22: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 22: United Kingdom

Adoption and Children Act 2002 (c. 38)

Law In Force

23

Section 17 of the Adoption and Children Act 2002 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 23: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 23: United Kingdom

Fire and Rescue Services Act 2004 (c. 21)

Law In Force

24

Section 27 of the Fire and Rescue Services Act 2004 (inquiries) is omitted.

Commencement

Sch. 2(1) para. 24: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(1) para. 24: United Kingdom

[...]¹

Notes

¹ Repealed by Protection of Vulnerable Groups (Scotland) Act 2007 asp 14 (Scottish Act) Sch.4 para.45 (February 28, 2011: repeal has effect on February 28, 2011 as specified in SSI 2011/157 art.2(a) subject to savings specified in SSI 2011/157 art.5(2))

Repealed

25 [...]¹

Notes

- ¹ Repealed by Protection of Vulnerable Groups (Scotland) Act 2007 asp 14 (Scottish Act) Sch.4 para.45 (February 28, 2011: repeal has effect on February 28, 2011 as specified in SSI 2011/157 art.2(a) subject to savings specified in SSI 2011/157 art.5(2))
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PART 3**NORTHERN IRELAND LEGISLATION**

Law In Force

26 Local Government Act (Northern Ireland) 1923 (c. 31 (N.I.))

Section 6 of the Local Government Act (Northern Ireland) 1923 (fees for holding inquiries) is omitted.

Commencement

Sch. 2(3) para. 26: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 26: United Kingdom

Law In Force

27 Petroleum (Consolidation) Act (Northern Ireland) 1929 (c. 13 (N.I.))

Section 14 of the Petroleum (Consolidation) Act (Northern Ireland) 1929 (inquiry into accidents connected with petroleum spirit) is omitted.

Commencement

Sch. 2(3) para. 27: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 27: United Kingdom

Law In Force

28 Prison Act (Northern Ireland) 1953 (c. 18 (N.I.))

Section 7 of the Prison Act (Northern Ireland) 1953 (sworn inquiries) is omitted.

Commencement

Sch. 2(3) para. 28: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 28: United Kingdom

✔ Law In Force

29 Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))

In the Health and Personal Social Services (Northern Ireland) Order 1972, Article 54 (inquiries) and Schedule 8 (provisions as to inquiries) are omitted.

Commencement

Sch. 2(3) para. 29: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 29: United Kingdom

✔ Law In Force

30 Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9))

In Article 16 of the Health and Safety at Work (Northern Ireland) Order 1978 (investigations and inquiries) the following words are omitted—

- (a) in paragraph (1), “the Department concerned or”;
- (b) in paragraph (2), “The Department concerned or”;
- (c) in paragraph (5), “the Department concerned or, as the case may be,” and “that Department or” (in both places);
- (d) in paragraph (6) “The Department concerned or, as the case may be,”;
- (e) in paragraph (6)(a), (b) and (c), “that Department or”.

Commencement

Sch. 2(3) para. 30(a)-(e): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 30(a)-(e): United Kingdom

✔ Law In Force

31 Road Traffic (Northern Ireland) Order 1981 (S.I. 1981/154 (N.I. 1))

In Schedule 5 to the Road Traffic (Northern Ireland) Order 1981 (provisions as to inquiries and applications), in paragraph 5, for “Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972” there is substituted “Schedule A1 to the Interpretation Act (Northern Ireland) 1954”.

Commencement

Sch. 2(3) para. 31: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 31: United Kingdom

✔ Law In Force

32 Agricultural Marketing (Northern Ireland) Order 1982 (S.I. 1982/1080 (N.I. 12))

In Article 4 of the Agricultural Marketing (Northern Ireland) Order 1982 (approval of schemes), in paragraph (10), for the words from “Article 54” to “1954,” there is substituted “Schedule A1 to the Interpretation Act (Northern Ireland) 1954 shall, in its application to any such inquiry by virtue of section 23 of that Act,”.

Commencement

Sch. 2(3) para. 32: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 32: United Kingdom

✔ Law In Force

33 Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))

Article 108 of the Education and Libraries (Northern Ireland) Order 1986 (inquiries and investigations) is omitted.

Commencement

Sch. 2(3) para. 33: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 33: United Kingdom

✔ Law In Force

34 Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))

Article 69 of the Adoption (Northern Ireland) Order 1987 (inquiries) is omitted.

Commencement

Sch. 2(3) para. 34: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 34: United Kingdom

✔ Law In Force

35 Roads (Northern Ireland) Order 1993 (S.I. 1993/3160 (N.I. 15))

In Article 130 of the Roads (Northern Ireland) Order 1993 (inquiries), in paragraph (2)–

- (a) for “Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972” there is substituted “Schedule A1 to the Interpretation Act (Northern Ireland) 1954”;
- (b) for “the Interpretation Act (Northern Ireland) 1954” there is substituted “that Act”;
- (c) for “paragraph 6” there is substituted “paragraph 7(1)”.

Commencement

Sch. 2(3) para. 35(a)-(c): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 35(a)-(c): United Kingdom

Law In Force

36 Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

Article 152 of the Children (Northern Ireland) Order 1995 (inquiries) is omitted.

Commencement

Sch. 2(3) para. 36: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 36: United Kingdom

Law In Force

37 Commissioner for Complaints (Northern Ireland) Order 1996 (S.I. 1996/1297 (N.I. 7))

In Article 9 of the Commissioner for Complaints (Northern Ireland) Order 1996 (matters not subject to investigation), in paragraph (5), for the words from “the subject of” to the end there is substituted

“the subject of–

- (a) an inquiry under the Inquiries Act 2005, or
 - (b) any such inquiry as is referred to in section 23 of the Interpretation Act (Northern Ireland) 1954 (inquiries and investigations)”.
-

Commencement

Sch. 2(3) para. 37: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 37: United Kingdom

Law In Force

38 Road Traffic Regulation (Northern Ireland) Order 1997 (S.I. 1997/276 (N.I. 2))

In Article 65 of the Road Traffic Regulation (Northern Ireland) Order 1997 (inquiries), in paragraph (2)–

- (a) for “Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972” there is substituted “Schedule A1 to the Interpretation Act (Northern Ireland) 1954”;
- (b) for “the Interpretation Act (Northern Ireland) 1954” there is substituted “that Act”;
- (c) for “paragraph 6” there is substituted “paragraph 7(1)”.

Commencement

Sch. 2(3) para. 38(a)-(c): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 38(a)-(c): United Kingdom

Law In Force

39 Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

Article 58 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (inquiries and investigations) is omitted.

Commencement

Sch. 2(3) para. 39: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 39: United Kingdom

Law In Force

40 Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (S.I. 2003/417 (N.I. 4))

In Articles 7 and 39 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (individuals named in the findings of certain inquiries), in paragraph (7)(a), after “held” there is inserted “under the Inquiries Act 2005 or”.

Commencement

Sch. 2(3) para. 40: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 40: United Kingdom

Law In Force

41 Commissioner for Children and Young People (Northern Ireland) Order 2003 (S.I. 2003/439 (N.I. 11))

In Article 13 of the Commissioner for Children and Young People (Northern Ireland) Order 2003 (actions which may be investigated: restrictions and exclusions), in paragraph (3), for “the subject of a local or public inquiry” there is substituted

“the subject of–

- (a) an inquiry under the Inquiries Act 2005, or
- (b) any such inquiry as is referred to in section 23 of the Interpretation Act (Northern Ireland) 1954 (inquiries and investigations)”.

Commencement

Sch. 2(3) para. 41: June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 2(3) para. 41: United Kingdom

SCHEDULE 3
REPEALS AND REVOCATIONS

Section 49
 Law In Force

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Regulation of Railways Act 1871 (c. 78)	Section 7.
Ministry of Transport Act 1919 (c. 50)	Section 20.
Tribunals of Inquiry (Evidence) Act 1921 (c. 7)	The whole Act.
Local Government Act (Northern Ireland) 1923 (c. 31 (N.I.))	Section 6.
Petroleum (Consolidation) Act (Northern Ireland) 1929 (c. 13 (N.I.))	Section 14.
Road and Rail Traffic Act 1933 (c. 53)	Section 47.
Prison Act (Northern Ireland) 1953 (c. 18 (N.I.))	Section 7.
Agricultural Marketing Act 1958 (c. 47)	Section 26(6) to (8).
Mental Health Act 1959 (c. 72)	Section 143.
Transport Act 1962 (c. 46)	Section 90.
Fees for Inquiries (Variation) Order 1968 (S.I. 1968/656)	In the Schedule, the entries relating to the Road and Rail Traffic Act 1933 and the Road Traffic Act 1960.
Civil Evidence Act 1968 (c. 64)	Section 17(1)(a).
Civil Evidence Act (Northern Ireland) 1971 (c. 36 (N.I.))	In section 13(1), the words from the beginning to “; and” and the word “other”.
Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14))	Article 54. Schedule 8. In Schedule 16, paragraph 17.
Local Government (Modifications and Repeals) Order (Northern Ireland) 1973 (S.R. & O. 1973 No. 285)	In the Schedule, the entry relating to section 6 of the Local Government Act (Northern Ireland) 1923.
National Health Service Act 1977 (c. 49)	Section 84.
Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9))	In Article 16– (a) in paragraph (1) the words “the Department concerned or”; (b) in paragraph (2) the words “The Department concerned or”;

<i>Reference</i>	<i>Extent of repeal or revocation</i>
	(c) in paragraph (5) the words “the Department concerned or, as the case may be,” and the words “that Department or” (in both places); (d) in paragraph (6) the words “The Department concerned or, as the case may be,”; (e) in paragraph (6)(a), (b) and (c) the words “that Department or”.
Public Passenger Vehicles Act 1981 (c. 14)	Sections 76 and 77.
Mental Health Act 1983 (c. 20)	Section 125.
Road Traffic Regulation Act 1984 (c. 27)	Sections 128 and 129.
Fees (Increase) Order (Northern Ireland) 1984 (S.R. (N.I.) 1984 No. 369)	In the Schedule, the entry relating to the Local Government Act (Northern Ireland) 1923.
Local Government Act 1985 (c. 51)	In Schedule 5, paragraph 4(36).
Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3))	Article 108.
Channel Tunnel Act 1987 (c. 53)	In Schedule 6, in paragraph 3 the words “and 7 (inquiries into railway accidents)”.
Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))	Article 69.
Road Traffic Act 1988 (c. 52)	Section 179.
Children Act 1989 (c. 41)	Section 81.
National Health Service and Community Care Act 1990 (c. 19)	In Schedule 9, paragraph 18(6).
Courts and Legal Services Act 1990 (c. 41)	In Schedule 16, paragraph 21.
Further and Higher Education Act 1992 (c. 13)	Section 57(9).
Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))	Article 152. In Schedule 9, paragraph 80.
Police Act 1996 (c. 16)	Section 49.
Education Act 1996 (c. 56)	Section 507.
Police Act 1997 (c. 50)	Sections 34 and 79.
Police (Northern Ireland) Act 1998 (c. 32)	Section 44.
Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))	Article 58.
Access to Justice Act 1999 (c. 22)	In Schedule 11, paragraph 9.
Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 (S.I. 1999/1747)	In Schedule 18, paragraph 2(20).
Health Act 1999 (Supplementary and Consequential Provisions) Order 1999 (S.I. 1999/2795)	Article 2(2).
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In Schedule 9, paragraph 128. In Schedule 4, paragraph 14(17).
Local Government Act 2000 (c. 22)	In Schedule 5, paragraph 21.

<i>Reference</i>	<i>Extent of repeal or revocation</i>
Regulation of Investigatory Powers Act 2000 (c. 23)	In section 18, the word “legal” in subsection (5) and the word “or” preceding paragraph (b) of subsection (7).
Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) (No. 2) Order 2000 (S.I. 2000/3251)	In Schedule 2, paragraph 2(27) to (29).
Adoption and Children Act 2002 (c. 38)	Section 17.
Railway Safety Act (Northern Ireland) 2002 (c. 8 (N.I.))	Section 7(1).
Health and Social Care (Community Health and Standards) Act 2003 (c. 43)	In Schedule 4, paragraph 33.
Fire and Rescue Services Act 2004 (c. 21)	Section 27.

Commencement

Sch. 3 para. 1(a)-(e): June 7, 2005 (2005 c. 12 s. 51; SI 2005/1432 art. 2)

Extent

Sch. 3 para. 1(a)-(e): United Kingdom

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Inquiries Act which received Royal Assent on 7 April 2005. They have been prepared by the Department for Constitutional Affairs in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

OVERVIEW

3. The Inquiries Act is intended to provide a comprehensive statutory framework for inquiries set up by Ministers to look into matters of public concern. It gives effect to proposals contained in a Government consultation paper, dated 6 May 2004 entitled “Effective Inquiries”, which itself arose out of a memorandum, submitted to the House of Commons Public Administration Select Committee as part of its “Government by Inquiry” investigation.
4. The explanatory notes are divided into groups of sections reflecting the structure of the Act. In relation to each group of sections, there is a summary, and also some background. Commentary on particular sections is then set out in numerical order, with the commentary on the various Schedules included with the sections to which they relate.
5. The sections are grouped under 10 cross-headings:

Constitution of inquiry

These sections make provision for Ministers to set up formal, independent inquiries relating to particular events which have caused or have potential to cause public concern, or where there is public concern that particular events may have occurred. These sections also make provision for Ministers to set the terms of reference, to appoint a chairman to conduct the inquiry, and also additional panel members and assessors where appropriate.

Conversion of inquiries

- These sections contain provisions that will allow inquiries established otherwise than under this Act to be converted into inquiries under the Act.

Inquiry proceedings

- These sections make provision about how inquiries held under this Act are to be conducted. They provide for an inquiry chairman to have powers to require the production of evidence and for the establishing Minister or the chairman, or both, to be able to place restrictions on public access to the inquiry where appropriate.

Inquiry reports

- These sections place a duty on the inquiry chairman to deliver a report to the commissioning Minister and set out what the final report may contain. They also contain a provision concerning the publication of the inquiry's report.

Scotland, Wales and Northern Ireland

- These sections deal with the respective powers of United Kingdom Ministers, Scottish Ministers, Northern Ireland Ministers and the National Assembly for Wales to set up inquiries under this Act.
- **Inquiries for which more than one Minister responsible**
- Contains provisions on inquiries established jointly by two or more Ministers, including cross-border inquiries within the United Kingdom.

Supplementary

- These sections create offences and also provide for the enforcement of inquiry orders by the High Court or Court of Session. They also contain provisions which will give members of an inquiry immunity from civil proceedings, place a time limit on bringing an application for judicial review (except in Scotland) and provide for the commissioning Minister to pay the costs of the inquiry panel, any assessors, any counsel and solicitor to the inquiry and anyone engaged to provide assistance to the inquiry. They also contain arrangements for payments of expenses of witnesses, including legal representation, where appropriate.

General

- This group of sections contains definitions of words and expressions used in the Act. It also contains a provision which allows the Lord Chancellor, the Scottish Ministers, the National Assembly for Wales and the First Minister and deputy First Minister in Northern Ireland to make procedural rules.

Amendments etc

- This group of sections contains amendments to the Financial Services and Markets Act 2000 and to section 23 of the Interpretation Act (Northern Ireland) 1954 and also introduces the Schedules of consequential amendments and repeals.

Final provisions

- These include provisions about commencement.

TERRITORIAL EXTENT

This Act applies throughout the United Kingdom (see section 52). Section 28 applies specifically to Scotland, section 29 to Wales and section 30 to Northern Ireland.

COMMENTARY ON SECTIONS

CONSTITUTION OF INQUIRY

Section 1: Power to establish inquiry

6. This section enables any Minister to cause an independent inquiry to be held and sets out the circumstances in which the inquiry may be established. The range of inquiries in the past ten years illustrates that it is not possible to specify more precisely the circumstances when an inquiry may be called. An inquiry could be called into a particular event (e.g. Dunblane inquiry 1996) or a series of events (e.g. BSE inquiry 1997). Although most past inquiries have been triggered by events, they have also been held where there is a concern that something has failed to happen or that particular systems have not operated properly (for example, the Climbi, inquiry 2001). This section allows for an inquiry to be set up when there are concerns of this type too.

7. The Act is UK-wide. Ministers from the Devolved Administrations will have the power to establish inquiries into matters within their remit.

Section 2: No determination of liability

8. The purpose of this section is to make clear that inquiries under this Act have no power to determine civil or criminal liability and must not purport to do so. There is often a strong feeling, particularly following high profile, controversial events, that an inquiry should determine who is to blame for what has occurred. However, inquiries are not courts and their findings cannot and do not have legal effect. The aim of inquiries is to help to restore public confidence in systems or services by investigating the facts and making recommendations to prevent recurrence, not to establish liability or to punish anyone.

9. However, as subsection (2) is designed to make clear, it is not intended that the inquiry should be hampered in its investigations by a fear that responsibility may be inferred from a determination of a fact.

Section 3: The inquiry panel

10. The aim of this section is to provide Ministers with the flexibility to appoint an inquiry panel that is appropriate to the circumstances under investigation. The Minister may appoint either a chairman to sit alone (e.g. Lord Cullen sat alone as the chairman to the inquiry into the shootings at Dunblane Primary School, 1996) or with one or more panel members (e.g. Michael Redfern QC chaired a three person panel for the Royal Liverpool Children's Hospital inquiry, 1999). Section 4 ensures that where the chairman will not sit alone the Minister will consult him on the appointment of any other panel members, including any appointed under section 7.

Section 4: Appointment of inquiry panel

11. This section is self-explanatory.

Section 5: Setting-up date and terms of reference

12. Section 5 requires the Minister to specify a setting-up date and terms of reference for the inquiry. The setting-up date given by the Minister is the date the inquiry formally comes into existence as an independent body. This date is purely a formality and need not relate to any other event connected with setting up the inquiry, such as an opening meeting. Before this date an inquiry will not begin

considering evidence. It might, however, begin taking some practical steps to find premises and staff.

13. An inquiry is set up to investigate a particular set of circumstances. The remit of the inquiry must be set out by the Minister in the terms of reference before the setting-up date. The Minister must consult with the chairman when either setting or changing the terms of reference. The Act does not contain any specific requirement for the Minister to consult other individuals or organisations, but they can be consulted if the Minister considers it appropriate in the particular circumstances. The period of time leading to the setting-up date could be used for consultation.

14. The type of information contained in the terms of reference will vary from inquiry to inquiry. For example, the terms for the Victoria Climbié, and Shipman inquiries were fuller than those used for the Bloody Sunday inquiry. In some cases it might be appropriate to specify a date by which the inquiry is asked to report, or the level of urgency. The definition of terms of reference in this Act is wide in order to allow for appropriate terms of reference to be set for a wide range of inquiries under this section. Under subsection (6)(c) of section 5, the Minister must specify whether the inquiry is asked to make recommendations. However, section 24(1), which is concerned with inquiry reports, makes it clear that the panel may make recommendations even if this was not a requirement in the terms set by the Minister.

Section 6: Minister's duty to inform Parliament or Assembly

15. This section requires the Minister to inform “the relevant Parliament or Assembly” that he intends to hold an inquiry and to give certain details about it. As the definition of this expression in section 43 makes clear, the relevant Parliament or Assembly will depend upon whether the Minister is a UK Minister or a Minister in a devolved administration. If the inquiry is being set up jointly by Ministers from more than one administration, this section requires statements to be made to each relevant Parliament or Assembly. The Act requires statements to be made “as soon as is reasonably practical”, which allows for periods of recess, for example.

Section 7: Further appointments to inquiry panel

16. This section is self-explanatory.

Section 8: Suitability of inquiry panel

17. The Minister is required to consider the factors in subsection (1)(a) and (b) of section 8 every time he makes an appointment, including any further appointments during the inquiry. He must consider the need for balance in relation to issues that are likely to be relevant to the terms of reference. So, for example, this requirement would not usually mean that the Minister needs to consider appointing an equal number of men and women to the panel, unless the subject matter of the inquiry means that the sex of the panel members is particularly relevant. What it does mean is that he should consider balance in terms of the relevant experience that the panel members bring. So, for example, the panel of the Bristol Royal Infirmary inquiry consisted of a professor of health law, ethics and policy, a professor at the Imperial College School of Medicine and practising GP, an academic specialising in family law and an executive director of nursing with 20 years' experience. That panel had a range of experience, which was balanced between different subject areas and between academic and practical experience. The requirement does not mean that the panel must contain people who would be seen as representing all the groups with an interest in the inquiry. It does mean, however, that the Minister should avoid appointing a set of panel members who, in the light of their combined experience and backgrounds, are likely to tend towards a particular viewpoint.

18. Under subsection (2) the Minister may bear in mind the contribution of assessors to the expertise of the panel for the purposes of subsection (1)(a). The purpose of subsection (1)(a) is to ensure that the panel has the ability to conduct an informed analysis of the evidence and produce a full and useful report. Assessors may provide expert assistance to the panel members, enabling them to do this. However subsection (1)(b), which provides for the need for balance in the context of the terms of reference, does not take into account the contribution of any assessors. This is because it is the panel, and the panel alone, who have responsibility for the contents of the report, and the requirement for balance is designed to ensure that this report is fair and reasoned. The panel may ask for the assistance of those working for the inquiry, including the assessors, in writing the report, but it is the panel who have the final word on what goes into the report.

Section 9: Requirement of impartiality

19. A person might be said to have an “interest” in the events which gave rise to the inquiry where the matters raised impinge on issues which he is concerned about, either personally or professionally. Therefore a “direct interest” would be present where the individual's concern with the events is particularly strong. In contrast, “close association” focuses not so much on the interests of the individual, but on the links (whether personal or professional) that the individual has. For example, were an inquiry panel member to have ties with a witness, there might be concerns about the weight which that inquiry panel member would give to the evidence.

20. The section does not prevent the appointment of individuals with expertise in a specific subject area, as section 8 makes clear. For example, if an inquiry were set up to look into the circumstances surrounding allegations of misconduct by a doctor this section would not prevent the appointment to the panel of individuals with expertise in NHS monitoring practices who had not been involved in the case of that particular doctor. That experience in itself would probably not be regarded as constituting a “direct interest” or “close association”.

21. There might be cases in which it would be beneficial to the inquiry to appoint a person with more direct experience of the area under investigation. In some specialised subject areas, it could be difficult to find panel members who did not have some sort of association with those involved, or a general interest in the subject matter. Even if a prospective panel member did have a “direct interest” or “close association”, the section allows the Minister to appoint the individual, provided that the interest or association could not reasonably be regarded as affecting the impartiality of the panel as a whole.

Section 10: Appointment of judge as a panel member

22. This section deals with the circumstances in which a Minister proposes to appoint a (serving) judge as a panel member (including chairman) to an inquiry. The section sets out whom the Minister is required to consult before making such an appointment. In practice, it is likely that consultation for judges in England, Wales and Northern Ireland will be done through the Lord Chancellor.

Section 11: Assessors

23. The role of assessors will vary from inquiry to inquiry, but in essence they are experts in their own particular field whose knowledge, where necessary, can provide the panel with the expertise it needs in order to fulfil an inquiry's terms of reference. For example in the Victoria Climbié inquiry, four expert assessors, including a consultant paediatrician and a detective superintendent, joined the chairman, Lord Laming. Assessors do not have any of the inquiry panel's powers and are not responsible for the inquiry report or findings. An assessor could be appointed for the duration of

the inquiry, but it would also be possible to appoint an assessor only for part of the inquiry, to assist when evidence on a particular subject was being considered.

Section 12: Duration of appointment of members of inquiry panel

24. In practice, if a panel member needs to leave the panel before the end of an inquiry, it is likely that he will resign. The circumstances covered in subsection (3), in which the Minister would be able to terminate the appointment of a panel member, are expected to arise very rarely.

Section 13: Power to suspend inquiry

25. An inquiry may be one of a number of investigations into a particular matter. Often, the respective timing of these is very important; for example, to ensure that an inquiry does not prejudice a criminal prosecution. The results of other investigations may also inform the inquiry and help prevent duplication.

26. In the event that new investigations or proceedings come to light or are commenced after the inquiry has started, it may be necessary to halt the inquiry temporarily. This section sets out the circumstances in which a Minister may, after consulting the chairman, suspend an inquiry to allow other proceedings to be completed.

Section 14: End of inquiry

27. This section sets out how an inquiry comes to an end. An inquiry is not permanent. It only exists between the setting-up date and the date on which it ends under this section. In most cases an inquiry will end when the chairman has submitted a report to the Minister and has done any further work necessary to wind up the inquiry, such as a costs assessment. However, there might be situations before the submission of the report in which it is no longer necessary or possible for the inquiry to continue. Evidence may emerge that obviates the need to hold an inquiry or demonstrates that the inquiry has the wrong focus, for example, if it emerged during an inquiry that the event being investigated was an act of sabotage rather than failings of a particular system, and ought to be dealt with by the police rather than an inquiry. Other events might occur which also need to be investigated, and it may be more appropriate to set up a single, wider-ranging inquiry, perhaps with a different panel. Something might happen, such as a fire or the death of a witness, which means that an inquiry will no longer have access to the evidence it needs to conduct an effective investigation, and it may no longer be in the public interest for it to continue. Such scenarios are unlikely, but possible. In such cases, and other unforeseen circumstances, the Minister, after consulting the chairman, is able to bring the inquiry to a close.

28. Subsection (2) provides that the Minister may not end the inquiry retrospectively. Any proceedings up to the date the Minister notifies the chairman an inquiry is ending would be valid.

CONVERSION OF INQUIRIES

Section 15: Power to convert other inquiry into inquiry under this Act

29. This section enables the Minister to convert an inquiry that is not being held under the Inquiries Act into an inquiry held under the Inquiries Act. In recent non-statutory inquiries, including Hutton and Bichard, the chairmen have stated that if formal powers were required, these would be made available to them by effectively converting to a statutory inquiry. Three recent health inquiries (Ayling, Neale, Kerr/Haslam) were converted from being held under a general power to do anything which related to the discharge of a Minister's duties (section 2 National Health Service Act 1977) into inquiries established under section 84 of the same Act which is a specific inquiry power with powers of compulsion.

30. The Minister may convert a non-statutory or statutory inquiry provided that he is satisfied that the matter the original inquiry was investigating fell within the scope of the circumstances in subsection (2), which are the same as those set out in section 1 of the Act. It is not intended that this power should be used to convert other types of inquiries, such as planning inquiries.

31. The Minister may, after consulting the chairman, change the terms of reference when converting the inquiry. This means that he can ensure that they fulfil the conditions set out in section 5. It may also be appropriate to alter the terms of reference if, for example, the inquiry is being converted because it has become clear that the scope of the original inquiry was too narrow, and a broader inquiry power is needed. The requirement to keep the relevant Parliament or Assembly advised (under section 6) applies also to converted inquiries.

Section 16: Inquiries converted under section 15

32. This section makes provision for inquiries converted under section 15. Orders made under the original inquiry may only be enforced using powers that the inquiry had at the time of making the order. For example, if the chairman of a converted inquiry had made a request for evidence prior to conversion, he could not prosecute an individual under section 35 for failure to comply. He would have to issue a notice under section 21, using the inquiry's new powers of compulsion first. Once an inquiry has been converted, the appointment of the original panel members continues as if made under this Act and is subject to the provisions of section 12.

INQUIRY PROCEEDINGS

Section 17: Evidence and procedure

33. Subsection (3) requires the chairman to act fairly throughout the inquiry. This serves to underline the duty that already exists in the common law. In applying this duty the chairman may consider, for example, if certain participants require some form of legal advice or representation. Subsection (3) also ensures that the need to control cost is a valid consideration for the chairman when conducting and planning proceedings. The cost of inquiries will vary according to the complexity of the matters being investigated. The Minister is required, by section 39(3), to meet expenses incurred in holding the inquiry. Each decision to admit evidence, to hold oral hearings, or to allow legal representation adds to the cost of the inquiry. The requirement to have regard to cost will strengthen the chairman's ability to defend decisions in which the need to limit costly elements of an inquiry was a factor.

Section 18: Public access to inquiry proceedings and information

34. This section makes clear that, subject to any restrictions issued under the following section, the chairman is required to do what he considers reasonable to ensure public access to evidence in the ways set out in subsection (1)(a) and (b). The chairman is able to judge what is reasonable so, for example, if the panel has been sent documents that it considers to be irrelevant then the chairman may decide not to make those available with the rest of the evidence.

35. Broadcasting of inquiry proceedings is at the chairman's discretion. In the past, some inquiry chairmen have allowed broadcasting of particular stages, such as the opening statements. In deciding whether to allow broadcasting, the chairman will need to consider whether it would interfere with witnesses' human rights and, in particular, with the right to respect for a private and family life (Article 8 of the European Convention on Human Rights). Unlike inquiries under the Tribunals of Inquiry (Evidence) Act 1921, inquiries under the Inquiries Act will not be covered by section 9 of the Contempt of Court Act 1981, which places restrictions on sound recording.

36. Subsections (3) and (4) of this section provide that, in relation to the records of inquiries held under this Act, the general exemptions for the records of statutory inquiries in the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 (“the FOI Acts”) will not apply. During the course of an inquiry held under the Inquiries Act, that inquiry is not a public authority for the purposes of those Acts. However, once an inquiry is over, its records are generally held by a public authority, such as a Government Department or the National Archives. Section 41 enables procedure rules to be made, which could provide for the passing of documents given to or created by an inquiry to a public authority. The exemptions in section 32(2) of the FOI Act 2000 and section 37(1)(b) of the FOI Act 2002 will not apply to information contained in those documents. This section does not affect the application of the FOI Acts to inquiries held otherwise than under this Act. Nor does it prevent any other exemption in the FOI Acts from applying to any information in inquiry records.

Sections 19 & 20: Restrictions on public access etc; Further provisions about restriction notices and orders

37. These two sections set out the extent to which inquiry proceedings can be held in private and evidence can be withheld from the public domain.

38. There may be circumstances in which part or all of an inquiry must be held in private, and over a third of the notable inquiries held in the past fifteen years have had some sort of restrictions on public access. These range from wholly private inquiries, such as the Penrose inquiry into the collapse of Equitable Life and the “Lessons Learned” (Foot and Mouth) Inquiry, to mainly public inquiries such as the Bloody Sunday inquiry and the Hutton inquiry, in which a small amount of highly sensitive material was withheld from the public domain.

39. In some past inquiries, it has been the Minister who has specified restrictions, whereas in others the chairman has set the restrictions. Section 19 allows for both. It replaces a range of statutory provisions on public access in the legislation that is repealed by Schedule 2 including, for example, section 81 of the Children Act 1989, which states:

“(2) Before an inquiry is begun, the Secretary of State may direct that it shall be held in private.

(3) When no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.”

40. Public access to past inquiries has been restricted for a variety of reasons. Section 19(4) sets out a number of matters that must be taken into account when determining whether it is in the public interest to issue a restriction notice or order. Most of these factors are self-explanatory.

41. Section 19(4)(c) is intended, among other things, to cover cases in which a person has received information that he would usually be prevented by law from disclosing. For example, the Financial Services Authority receives sensitive information about firms in its role as a regulator, but is prevented from disclosing that information generally by Part 23 of the Financial Services and Markets Act 2000. Inquiries' powers of compulsion would override those restrictions, but it might be appropriate for the chairman or Minister to consider preventing the information from being disclosed more widely.

42. Section 19(4)(d) recognises that some inquiries might be conducted more efficiently or effectively with restrictions on public access. Several recent inquiries under section 84 of the NHS Act 1977

have been held partially in private, with relatives and participants admitted but not the general public.

43. Restrictions that could be imposed on attendance under subsection (1)(a) of section 19 might range from the exclusion of the press or general public (allowing those with an interest in the inquiry to attend, as was the case in the Ayling and Neale inquiries) to the exclusion of everyone except the panel, the witness and, if appropriate, their legal representatives (as happened in the Penrose inquiry into the collapse of Equitable Life). They might be imposed on all hearings, or only where a particular witness was giving evidence or where evidence was heard on a specified topic. The nature of the restriction would depend upon the reasons for it. Similarly, a range of different restrictions might be imposed on the disclosure or publication of evidence or documents.

44. Nothing in section 19 is intended to prevent a witness from passing on evidence that he himself has given to an inquiry either whilst inquiry proceedings are ongoing or after the inquiry has ended. However, there might be situations in which restrictions under section 19 could prevent a person from passing on information that he has learnt as a result of his attendance at, or involvement in, the inquiry. If the powers in this section are exercised in any way that engages Article 10 of the European Convention on Human Rights then of course that exercise must be done in a way which complies with Article 10(2) of the Convention.

45. Section 20 allows the Minister and chairman to issue further restrictions and to vary or revoke their own restrictions at any time before the end of the inquiry. The Minister cannot vary or revoke the chairman's restrictions and vice versa. There is, however, nothing to stop the chairman from asking the Minister to consider exercising his discretion to vary a notice. The power to vary notices and orders will allow for situations in which it becomes apparent that more information can be made public than was originally envisaged, or that more people can be given access to information than allowed by the original notice, as well as any situations in which it becomes apparent that further restrictions are necessary.

46. Section 20 provides that, except in relation to inquiry records, restriction notices and orders continue indefinitely unless otherwise specified or unless they are revoked. Orders restricting attendance will only be relevant during the course of the inquiry, but some orders restricting disclosure or publication of evidence might need to continue beyond the end of the inquiry. For example, if an inquiry chairman issued an order that the identity of a particular witness was to be kept confidential, because the witness could be at risk if his identity were disclosed, that order would need to continue to protect that witness after the inquiry had ended.

47. Subsection (6) of section 20 is designed to ensure that restrictions do not create a barrier to disclosure of information from inquiry records under the FOI Acts. In addition to this, subsection (7) allows the Minister to relax or revoke restrictions after the end of an inquiry. This is to ensure that any restrictions still in place (which apply to information other than in inquiry records) can be removed if they become unnecessary.

48. Disclosure restrictions would not prevent a person not involved in the inquiry from disclosing or publishing information that had come into his possession through means unconnected with the inquiry, even if some of that information might be included in documents or hearings that were covered by a restriction order or notice.

49. For example, suppose that an inquiry were set up into the death of a hospital patient, and that a restriction notice were issued to exclude the general public from the proceedings and to prevent the publication of transcripts of evidence, because it was considered that an inquiry held partly in

private would be more effective. The inquiry might consider information already in the public domain, such as papers from the inquest, or statements of hospital policy. The fact that a restriction notice was in place for the inquiry would not prevent a member of staff at the hospital from providing a patient with a copy of the hospital policy.

50. To take another example, suppose that a Government department provided information to an inquiry held in private and that, after the end of the inquiry, a request were made under the Freedom of Information Act 2000 for some of that information. The Department could not refuse to provide the information purely because it happened to have been covered by the restriction notice, because the Department would have held that information even if the inquiry had never happened. The purpose of a restriction notice is just to restrict disclosure of information in the context of the inquiry or to restrict disclosure by those who have received the information only by virtue of it being given to the inquiry.

Section 21: Powers of chairman to require production of evidence etc

51. This section provides inquiries with statutory powers to compel evidence. The powers are exercisable by the chairman, but in a multi-member inquiry he will be exercising them on behalf of the panel. It is envisaged that most requests for information from an inquiry panel will not be made under section 21. An inquiry panel will usually ask for information informally first, and experience from past inquiries has shown that the vast majority of informal requests will be complied with. There are three main scenarios in which powers of compulsion are likely to be used:

- (i) a person is unwilling to comply with an informal request for information;
- (ii) a person is willing to comply with an informal request, but is worried about the possible consequences of disclosure (for example, if disclosure were to break confidentiality agreements) and therefore asks the chairman to issue a formal notice; or
- (iii) a person is unable to provide the information without a formal notice because there is a statutory bar on disclosure.

52. Section 21(4) covers two reasons for which a person might refuse to comply with a notice issued under powers of compulsion. Subsection (4)(a) would cover circumstances when the person was unable to comply, for example, if he did not have the information being requested. Subsection (4)(b) is designed to cover situations in it would be unreasonable to expect a person to comply. This might be because the difficulty, time or expense involved in providing the information would be so great that a person could not reasonably be expected to do so. For example, if an inquiry chairman gave a notice requesting that an organisation produce every document it had on a particular topic within two weeks, and the organisation would have to search through thousands of files to comply, the organisation might make a claim under section 21(4)(b). The chairman would then consider, under section 21(5), whether the public interest in obtaining the information within that timeframe outweighed the cost, bearing in mind how important the information was likely to be. He might choose to vary his notice by extending the deadline, narrowing the categories of information being asked for, or by specifying that the organisation only need to search certain sites for the information. Section 21(4)(b) could also cover situations in which it would not be reasonable to expect a person to provide evidence because the evidence is unlikely to be of material assistance to an inquiry.

53. On occasion, it is possible that the evidence being requested will be an intercepted communication. To ensure that such material can be disclosed to the inquiry, there is an amendment in paragraph 21 of Schedule 2 to the Act to ensure that this is permissible under section 18 of the Regulation of Investigatory Powers Act 2000.

Section 22: Privileged information etc

54. Section 22(1) ensures that witnesses before inquiries will have the same privileges, in relation to requests for information, as witnesses in civil proceedings. In particular, this means that a witness will be able to refuse to provide evidence:

- (i) because it is covered by legal professional privilege;
- (ii) because it might incriminate him or his spouse or civil partner (by virtue of section 84 the Civil Partnerships Act 2004); or
- (iii) because it relates to what has taken place in Parliament.

55. In some recent inquiries, the Attorney General has given undertakings along the following lines:

“To undertake in respect of any person who provides evidence to the inquiry that no evidence he or she may give before the inquiry, whether orally or by written statement, nor any written statement made preparatory to giving evidence nor any document produced by that person to the inquiry will be used in evidence against him or her in any criminal proceedings, except in proceedings where he or she is charged with having given false evidence in the course of this inquiry or having conspired with or procured others to do so.”

56. If such an undertaking was given, it would be difficult for an individual to refuse to answer certain questions by claiming the privilege against self-incrimination. As for subsection (1)(b), in certain circumstances European Community law may prevent a person from disclosing information to others. An example of this is article 30 of the Directive of the European Parliament and of the Council of 20 March 2000 relating to the taking up and pursuit of the business of credit institutions, which is commonly known as the Banking Consolidation Directive.

57. Section 22(2) provides expressly that it will be possible to make in an inquiry, as it is in civil proceedings, an assertion that documents or information should be withheld from the inquiry (or from public disclosure) on the grounds that they are immune from disclosure in the public interest (“public interest immunity” or PII). Such applications have been made to inquiries in the past, including the Bloody Sunday Inquiry, for example, on the grounds that disclosure of the information would be prejudicial to national security. The Government's policy on claiming PII is that Ministers will claim PII only when it is believed that disclosure would cause real damage or harm to the public interest and that this outweighs the public interest in open justice. A claim for PII should be made by the person whose duty it is to protect the information (which need not necessarily be the Crown) supported by evidence (usually in the form of a witness statement or ministerial certificate) that disclosure would cause real damage or harm to the public interest. It is then the responsibility of the inquiry panel, having viewed the documents or information, to balance the public interest in disclosure against the public interest in maintaining confidentiality. Having carried out that “balancing exercise”, the inquiry must decide whether to uphold the claim for immunity and, if so, on what terms. The inquiry panel may decide that the information may be withheld, or that it be disclosed in whole or in part (after “redaction”).

58. Section 35(4) makes clear that a person who does not produce evidence to an inquiry because it is covered by section 22 is not committing any of the offences created in section 35 relating to distortion, suppression or destruction of evidence. In the case of a refusal to comply with an order of the inquiry on the ground that the evidence was covered by section 22, this could also be relied on as a “reasonable excuse” under section 35(1) for failure to comply with an order of the inquiry.

59. The House of Lords has recently made it clear in its decision in *Three Rivers v Bank of England* [2004] UKHL 48 that legal advice privilege applies in relation to advice given to witnesses in the

context of an inquiry. Such privilege extends to advice given about the presentation of evidence, since it is given within a relevant legal context. There is therefore no need for an express provision relating to the application of legal professional privilege to inquiries in the legislation.

Section 23: Risk of damage to the economy

60. Although an application under section 23 can be made only by those acting on behalf of the bodies specified (the Crown, Financial Services Authority or Bank of England), it can be made in respect of information held by any person. The inquiry panel will carry out a balancing exercise between the public interest in the information being revealed to the public and to other participants and the public interest in avoiding a risk of damage to the economy. If the inquiry panel considers that the public interest in avoiding the risk of damage to the economy outweighs the public interest in disclosure, it will be able to take this material into account in its deliberations but will not be able to refer to the material (or its existence) publicly. Section 23 does not impact upon the general principles of public interest immunity, but exists in addition to them.

INQUIRY REPORTS

Section 24: Submission of reports

61. Section 24 places a duty on the chairman of an inquiry to report its conclusions to the Minister. If an inquiry has been brought to an end early under section 14(1)(b), the chairman does not have to produce a report but he can do so if he wishes. In the unlikely event that a member of the inquiry panel disagrees with the general conclusions to such a great extent that no amount of modification under section 24(5) will produce a report that he is content to sign, he can release himself from the obligation, under subsection (4), to sign it by resigning from the panel.

Section 25: Publication of reports

62. Subsection (4)(a) would allow, for example, the person publishing the report to redact personal information (such as medical reports) as required by the Data Protection Act 1998. The factors that the person publishing the report must take into account, when considering whether any redaction is in the public interest under subsection (4)(b), are equivalent to those for restriction notices and restriction orders (see section 19(4)), except for the references to cost, effectiveness and efficiency of the inquiry, which are no longer relevant in the context of reports.

Section 26: Laying of reports before Parliament or Assembly

63. The report published under section 25 will be the same version required to be laid before the relevant Parliament or Assembly.

SCOTLAND, WALES AND NORTHERN IRELAND

64. This group of sections deals with the respective powers of United Kingdom Ministers, of Scottish Ministers, of the National Assembly for Wales and of Northern Ireland Ministers to set up inquiries under this Act. The Act allows Ministers in each administration to set up inquiries in their administration's own areas of responsibility but contains limitations, set out in sections 27 to 30, which reflect the terms of each devolution settlement.

Section 27: United Kingdom inquiries

65. This section provides that a Minister setting up a United Kingdom inquiry cannot include anything in the terms of reference that would require the inquiry to receive any evidence or make any recommendations that are wholly or primarily concerned with a Scottish, Welsh or Northern Ireland matter without consulting the devolved administration first. It is envisaged that UK Ministers

will not usually set up inquiries into devolved matters without the agreement of the relevant devolved administration and that Ministers will consider whether a joint inquiry between the two administrations would be appropriate instead.

66. The section also places similar constraints on the use of powers of compulsion into devolved matters. If the terms of reference covered devolved areas (and the Minister had therefore already consulted the devolved administration under subsection (2)), the Minister might also need to give the inquiry permission to use its powers of compulsion in all the devolved areas that would be covered by the terms of reference.

67. Even if the terms of reference mentioned only reserved areas (and no consultation had been necessary under subsection (2)), the panel might consider it necessary to take evidence on certain devolved matters in order to fulfil them. For example, suppose that a United Kingdom inquiry had been established to investigate an incident relating to gun control. The inquiry might need to take medical evidence from a Scottish hospital in relation to injuries caused. If the panel believes the evidence is relevant to its terms of reference, it is entitled to consider it, provided that the hospital is willing to provide it. Similarly (see sections 28, 29 and 30 below) devolved inquiries are entitled to take evidence on reserved and excepted areas (except as prohibited by section 30(7)) provided it is relevant to the terms of reference and is willingly given. However, there might be occasions when a person is unable or unwilling to provide evidence without a notice under section 21, compelling him to do so. For United Kingdom inquiries, this is dealt with by section 27(3). (A different approach is taken for the devolved administrations, and is described in the notes on section 28.) The inquiry can apply to the Minister for permission to use its powers of compulsion in devolved areas. Before granting permission, the Minister would have to consult the devolved administration. It is envisaged that UK Ministers will not usually grant permission without the agreement of the relevant devolved administration.

68. Subsection (6) is needed to prevent a possible gap in coverage between the powers of inquiries set up by UK Ministers and by Northern Ireland Ministers, which arises out of the way in which “Northern Ireland matter” has been defined. This is explained in the notes on section 30.

Section 28: Scottish inquiries

69. As explained above, a Scottish inquiry may take evidence on reserved matters, if the panel considers that it is relevant to the terms of reference. However, it cannot compel that evidence, except in so far as it is allowed by subsection (3). Subsection (3)(b) has the effect of allowing Scottish inquiries to compel evidence on reserved matters if this is for the purpose of inquiring into something that is wholly or primarily a Scottish matter. The reasons for this power are best illustrated by an example. Suppose that the Scottish Ministers were to establish an inquiry into the environmental effects of flooding in Scotland and that one of the causes of flooding in Scotland is the leakage of polluted water from coal mines. The inquiry might wish to compel the production of documents held by a coal mining company relating to the operation of the water pump in its coal mine. However, coal mining is a reserved matter (section D3 of Part 2 of Schedule 5 to the Scotland Act 1998) and the documents are therefore concerned with a reserved matter. It would be difficult to say that a document prepared by a coal mine operator into the routine maintenance of its water pumps, which most likely would have been prepared long before the events giving rise to public concern occurred and without any anticipation of the events that occurred, were wholly or primarily concerned with the devolved matter of environment.

70. However, it would not be possible for a Scottish inquiry to compel evidence under subsection (3)(b) from any member of the United Kingdom Government (including Government Ministers

and the Departments acting on their behalf), or of the other administrations, because of the prohibition in subsection (4).

Section 29: Welsh inquiries

71. The provisions on Welsh inquiries mirror those on Scottish inquiries as explained above.

Section 30: Northern Ireland inquiries

72. The provisions on Northern Ireland inquiries are similar to those on Scottish inquiries described above, but reflect the differing circumstances of Northern Ireland and its devolution settlement.

73. The definition of “Northern Ireland matter” in section 30(8) covers some reserved matters in relation to which Northern Ireland Ministers have functions (see paragraph (b)), as well as transferred matters. However, section 30(6) creates some exceptions to the circumstances in which Northern Ireland inquiries can exercise their powers of compulsion in relation to those matters, in order to make the scope of inquiries' powers equivalent to the scope of the Northern Ireland Assembly's powers to summon witnesses and compel evidence. Since those exceptions are in section 30(6), rather than in the definition of “Northern Ireland matter”, section 27(6) is needed to ensure that they are not also excluded from the scope of inquiries established by United Kingdom Ministers.

74. In addition to the general restrictions on terms of reference and powers of compulsion, subsection (7) provides that an inquiry established by a Northern Ireland Minister must not receive evidence or make any recommendations on matters falling within paragraph 17 of Schedule 2 to the Northern Ireland Act 1998, which deals with national security.

75. Whilst there is a suspension of devolved government in Northern Ireland, functions conferred on a Northern Ireland Minister may be discharged by the Secretary of State for Northern Ireland, by virtue of section 45.

Section 31: The relevant part of the United Kingdom and the applicable rules

76. Subsection (1) provides that when an inquiry is set up, the Minister or Ministers who established it must specify what is “the relevant part of the United Kingdom” for the purposes of those provisions of the Act that use this expression. This will determine, for example, which law on privilege will apply and which court should have the powers to enforce orders of the inquiry (see sections 22(2) and 36(3)). It will not necessarily correspond to the administration setting up the inquiry. For example, if a United Kingdom Ministers were to establish an inquiry into a reserved matter in Scotland, which conducted its hearings mainly in Scotland, it would make sense for the relevant part of the United Kingdom to be Scotland. The relevant part of the United Kingdom will usually be the part in which the inquiry is being held, but it is possible that an inquiry may have several venues so for clarity it is important that the Minister or Ministers specify which part it is to be.

77. Subsection (2) applies (typically) where there is an inquiry involving two administrations each of which has made rules under the power conferred by section 41. It requires the Ministers responsible for the inquiry to specify which set of rules is to apply. For example, in the case of a joint inquiry set up by a United Kingdom Minister and the Scottish Ministers, the Ministers might specify the rules made by the Lord Chancellor or the rules made by the Scottish Ministers, or some of each. Subsection (4), on the other hand, gives power to a United Kingdom Minister setting up an inquiry into non-devolved matters in, say, Scotland to specify not only that the relevant part of the United Kingdom is Scotland but also that some or all of the rules applicable to the inquiry are to be rules made by the Scottish Ministers.

INQUIRIES FOR WHICH MORE THAN ONE MINISTER RESPONSIBLE

Section 32: Joint inquiries

78. In practice, this section would probably be used in situations where the subject matter of the inquiry fell within the responsibilities of more than one Minister. For example, the Victoria Climbié inquiry was established by the Home Secretary and the Secretary of State for Health. Sometimes, a joint inquiry might involve Ministers from more than one administration. For example, if devolution had been in place at the time of the Dunblane inquiry, which related both to firearms (a reserved issue) and safety in schools (a devolved one), the Scottish and UK Ministers might have chosen to set up a joint inquiry. Inquiries involving more than one administration are dealt with in more detail in the next section.

Section 33: Inquiries involving more than one jurisdiction

79. This section applies specifically to joint inquiries for which the responsibility is shared between two (or more) administrations — for example a joint inquiry set up by a United Kingdom Minister and the Welsh Assembly, or even a joint inquiry set up by the Scottish Ministers and the Northern Ireland Assembly. (The wording of subsection (1) reflects the fact that there are several United Kingdom Ministers and several Northern Ireland Ministers, whereas the Scottish Ministers and the National Assembly for Wales are each a single legal entity.)

80. This section sets out how the restrictions on terms of reference and powers of compulsion will work. Subsection (2) means that the terms of reference of the joint inquiry can cover matters that any one of the relevant Ministers would be able to establish an inquiry into. For example, the terms of reference of a joint inquiry established by Scottish Ministers and the National Assembly for Wales could require the inquiry to receive evidence or make recommendations that are wholly a primarily concerned with a Welsh or Scottish matter, but not on anything else. The terms of reference of a joint inquiry established by United Kingdom Ministers and Scottish Ministers could require the inquiry to receive evidence or make recommendations about anything not wholly concerned with a Welsh or Northern Ireland matter, and could extend to Welsh and Northern Ireland matters only if the UK Minister had first consulted the relevant administrations. The restrictions on powers of compulsion will operate in the same way.

Section 34: Change of responsibility for inquiry

81. This section might be used if it became clear, during the course of the inquiry, that its focus was more properly within the responsibilities of a Minister other than the commissioning Minister. For example, if a United Kingdom Minister had established an inquiry into events in Scotland that was expected to examine primarily reserved matters, and it subsequently became clear that there were significant implications for devolved matters, the establishing Minister might agree with the Scottish Ministers to share responsibility for the inquiry, making it an inquiry to which section 33 applied. This section might also be used to pass responsibility for an inquiry from one Minister to another within the same administration.

SUPPLEMENTARY

Section 35: Offences

82. This section provides sanctions for non-compliance with an inquiry, or for actions that are likely to hinder the inquiry. The offences created are similar to some of those created by section 250 of the Local Government Act 1972, which have been applied to a number of different types of inquiry in the past, including some under powers being repealed by this Act.

83. The offences created in this section are summary offences and would be dealt with by magistrates (or, in Scotland, in the Sheriff or District Court). The maximum penalty given is the maximum for summary offences. Level three on the standard scale is currently £1000. The maximum term of imprisonment for summary offences is currently six months, but it will be extended to 51 weeks in England and Wales once section 281(5) of the Criminal Justice Act 2003 is commenced. Section 44(3) ensures that the maximum term will be read as six months before that section is commenced.

84. In particular section 35(1) makes it an offence to fail, without a reasonable excuse, to comply with a formal notice requiring attendance at the inquiry or the production of evidence. Subsections (2) and (3) go wider, making it an offence to deliberately distort or conceal relevant evidence. These sections are drafted in such a way that it should not be possible for a person to commit an offence unwittingly (for example, by destroying a document that he does not realise is relevant). Subsection (4) ensures that a person does not commit an offence under subsection (2) or (3) if he is withholding evidence because he is allowed to do so by section 22 or, for example, if the evidence is covered by legal professional privilege. Subsection (4) also ensures that offences of suppressing or distorting evidence do not cover actions authorised by the panel (for example conducting a forensic test on a piece of evidence). The fact that the evidence was covered by section 22 or a privilege could also be relied on as a “reasonable excuse” under subsection (1).

85. In England and Wales and Northern Ireland, only the chairman can institute a prosecution for non-compliance with a notice issued under powers of compulsion. This is because it is for the chairman to decide whether to enforce notices issued under his powers of compulsion, and how best to do this. He has two possible options: prosecution for an offence under section 35 or enforcement of the notice by the appropriate court under section 36. It is considered to be undesirable for someone else to be able to begin a prosecution under section 35 when the chairman has decided instead to certify the matter to the High Court (or equivalent) under section 36.

86. Prosecutions for offences under subsection (2) or (3) may be brought only by or with the consent of the Director of Public Prosecutions in England, Wales and Northern Ireland. This serves to ensure that it is not open to those with an interest in the outcome of the inquiry to bring private prosecutions against witnesses with whose evidence they disagree. It also ensures that prosecutions can be brought after the inquiry has ended (which would not be possible if the chairman had to bring them). Some offences of this nature might come to light only after the end of an inquiry. In Scotland, prosecution of any offence is the responsibility of the Crown Office and Procurator Fiscal Service.

Section 36: Enforcement by High Court or Court of Session

87. This section provides for an appropriate court (the High Court or Court of Session) to enforce notices issued under powers of compulsion, restriction notices and any orders of the inquiry, including restriction orders. Where a person breaches a notice or order, or threatens to do so, the chairman of the inquiry (or the Minister, after the end of the inquiry) can certify the matter to the court, which can then take steps to enforce the order. This is similar to the mechanism that would have been used to enforce orders issued under the Tribunals of Inquiry (Evidence) Act 1921.

88. In the case of notices issued under powers of compulsion in section 21, enforcement by the appropriate court is an alternative mechanism to prosecution, and could be used in cases where a prosecution might not be the best method of obtaining the relevant evidence. However, the court could also be asked to enforce a wider range of orders, for example, to prevent someone revealing the name of a witness whose identity was covered by a restriction order. This example could occur after the end of an inquiry, when the chairman is no longer in a position to certify the matter to the

court, so section 36 provides for the Minister to certify matters to the court after the end of the inquiry.

Section 37: Immunity from suit

89. This section provides immunity for the inquiry panel, the inquiry's legal advisers and assessors, and other people engaged to assist it, from any civil action for anything done or said in the course of carrying out their duty to the inquiry. Subsection (1) will change the current practice whereby sponsor Departments usually have to provide indemnities to the inquiry, which can cause delays at the beginning of an inquiry. The lack of such protection was identified as an undesirable omission in the Tribunals of Inquiry (Evidence) Act 1921 in the report of the Royal Commission on Tribunals of Inquiry in 1966 (the "Salmon Report").

90. This section also provides that witness statements and inquiry reports will be covered by the same privilege, for the purposes of defamation law, as proceedings before a court. This privilege was already afforded to witnesses under the Tribunals of Inquiry (Evidence) Act 1921 but not under some subject-specific legislation.

Section 38: Time limit for applying for judicial review

91. The aim of this section is to reduce the time limit for judicial reviews of decisions that could delay an inquiry. This is because the prospect of a challenge to a procedural decision can halt the inquiry until it has been resolved by a court. For example, a challenge regarding a decision as to whether a witness could give evidence anonymously (perhaps to ensure his right to life was protected) would mean that the inquiry could not require evidence from that individual until the court had decided the matter. This time limit does not extend to challenges about the contents of reports or interim reports.

92. Unlike that in the Civil Procedure Rules, the time limit set by this section runs from the date on which an applicant became aware of the decision, not from the date on which the decision was made. Subsection (2) ensures that this change cannot serve to increase the time limit beyond the standard time limit in the Civil Procedure Rules or the Northern Ireland equivalent.

Section 39: Payment of inquiry expenses by Minister

93. This section sets out what the establishing Minister is obliged to fund and what he has discretion to fund.

94. Under subsections (4) and (5), the Minister is not obliged to fund activities that he has certified to the panel as being outside the inquiry's terms of reference.

95. The withdrawal of funding may be temporary and the Minister will resume funding if he is satisfied the inquiry is working back within the terms of reference. It is envisaged that any withdrawal of funding would only occur in exceptional circumstances. The Minister would be expected to notify the chairman if he had any concerns that the inquiry was working outside terms of reference, giving the inquiry an opportunity to address those concerns and avoid the need to remove funding.

96. Under subsection (6), the Minister is required to publish the total amount that he has paid for the inquiry under section 38. This requirement to publish costs would not cover all those costs to which the chairman must have regard under section 17(3), such as costs borne by witnesses themselves.

Section 40: Expenses of witnesses etc

97. Legal costs of participants often constitute the most significant part of the total cost of an inquiry. The non-statutory position adopted in recent inquiries has been for the Minister to decide, in consultation with the chairman, to fund those participating in the inquiry who are considered to have such a direct interest in the inquiry that they require representation but who may be unable to pay for representation themselves. The Government would not normally meet the costs of large organisations. This section enables this practice to continue. The chairman automatically has the power to pay costs, but the Minister can place qualifications on that power. The Minister will generally set out any broad conditions under which payment may be granted, and the chairman will then take the individual decisions.

98. The legal costs of Government witnesses might be met by the sponsoring department under the mechanism set out in this section, but not necessarily. If the witnesses were from a different department, their own department might pay for their representation, putting them in the same position as any other large organisation, to whom the inquiry would not usually grant funding.

GENERAL

Section 41: Rules

99. It is envisaged that the Lord Chancellor will make procedural rules for United Kingdom inquiries under this section. There is however no requirement for such rules to have been made before an inquiry may be established under the Act.

100. Subsection (2) enables rules to make provision for assessment of costs by a Costs Judge, among other things.

101. It is for the devolved administrations to make rules for their own inquiries. The rules will generally be subject to annulment by the relevant legislative body, as explained in subsections (5) and (6). However, there is no need for subsection (5) to make provision for Wales, because sections 66(2) and 67(3) of the Government of Wales Act 1998 set out the procedures for all general subordinate legislation made by the National Assembly for Wales.

Section 42: Notices

Section 43: Interpretation

102. These sections are self-explanatory.

Section 44: Transitory, transitional and saving provisions

103. Section 44 contains provisions for inquiries that have been set up under legislation that is being repealed by the Act. It will ensure, for example, that inquiries set up before this Act was introduced will not be affected by the provisions contained in this Act and will be able to continue as if the old legislation were still in place. It also provides that a Minister may still in the future set up an inquiry in ways other than under this Act, whether on a statutory basis or otherwise.

Section 45: Suspension of devolved government in Northern Ireland

104. This section ensures that during suspension of devolved government, the Secretary of State for Northern Ireland can exercise the powers of Northern Ireland Ministers to establish Northern Ireland Inquiries under section 30 and to make rules of procedure under section 41. The Secretary of State will be consulted, in place of the Northern Ireland Ministers, when consultation is required under section 27 or section 51.

AMENDMENTS ETC

Section 46: Inquiries under the Financial Services and Markets Act 2000

105. This section amends section 14 of the Financial Services and Markets Act 2000 (“FSMA”) which provides a mechanism for the Treasury to appoint a person to hold an independent inquiry in various circumstances relating to the regulatory framework for the financial services industry. The amendment is intended to extend the possible scope of inquiries under FSMA to cover failings in the previous regulatory system (albeit only where the events triggering the inquiry have occurred after December 2001). References to *subsections* below are to those of section 14 of FSMA.

106. An inquiry may be held in two types of cases. The first case, set out in subsection (2), relates to events concerning persons carrying on regulated activities or collective investment schemes. To trigger the power, it must appear to the Treasury that two conditions are met. The first of these is that the events posed, or could have posed, a grave risk to the financial system, or that they caused, or could have caused, significant damage to the interests of consumers. The second condition is that a serious failure in the regulatory system, or in the operation of that system, might have caused or exacerbated the risk or damage, or potential risk or damage.

107. The second case, set out in subsection (3), relates to events concerning the listing function under Part VI FSMA and significant damage to holders of listed securities. Here the Treasury must be concerned with the damage, or potential damage, that might have been caused by a serious failure in the listing regime or its operation.

108. In both cases, the power to arrange an inquiry relates to serious failure in the regulatory system established by FSMA. Subsections (2) and (3) of the section expand the scope of subsections (2) and (3) to include serious failure in the regulatory system under predecessor legislation, albeit that the event triggering an inquiry (e.g. grave risk to the financial system or significant damage to consumers) is subject to a separate requirement (see below)

109. Subsection (4) of this section inserts a new subsection (5A). This provides that an inquiry cannot be triggered where events described in subsection (2) and (3) occurred before 1 December 2001. An inquiry into similar events after 1 December 2001 could though consider circumstances surrounding these events, regardless of when these circumstances occurred.

Section 47: Inquiries etc under Northern Ireland legislation

110. This section amends the Interpretation Act (Northern Ireland) 1954 which applies the powers set out in Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972 (referred to below) to inquiries and investigations set up by Ministers. Schedule 8 is being repealed by this Act. Subsection (2), which introduces Schedule 1 to the Act, ensures that any legislation under which these powers have been implicitly given to inquiries by virtue of the Interpretation Act (Northern Ireland) 1954 will be unaffected.

Section 48: Minor and consequential amendments

111. Schedule 2 to this Act contains minor and consequential amendments to other legislation. Many of the amendments are to pieces of legislation relating to other types of inquiry that explicitly incorporate the powers in Schedule 8 to the Health and Personal Social Services (Northern Ireland) Order 1972, which is being repealed by this Act. The relevant provisions of that order are reproduced in a new schedule to the Interpretation Act (Northern Ireland) 1954 which is inserted by Schedule 1 to the Act, so that they can continue to apply to the legislation that will remain in force.

Section 49: Repeals and revocations

112. This section repeals the Tribunals of Inquiry (Evidence) Act 1921 and also introduces Schedule 3. The provisions being repealed in Schedule 3 are mainly ministerial powers to hold inquiries that could, in future, be established under the Inquiries Act.

FINAL PROVISIONS

Section 50: Crown application

113. This section ensures that the Act binds the Crown, so that the powers conferred on inquiries by this Act can be exercised in relation to Government Departments.

Section 51: Commencement

Section 52: Extent

Section 53: Short title

114. These sections are self-explanatory.

COMMENCEMENT

115. The provisions in the Act will come into force on a day appointed by the Lord Chancellor by order, after consultation with the devolved administrations (see section 51).

HANSARD REFERENCES

116. The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard reference
House of Lords		
Introduction and First Reading	25 November 2004	Vol.667 Column 161
Second Reading	9 December 2004	Vol.667 Column 984–1017
Grand Committee First Day	18 January 2005	Vol.668 Column GC 191–248
Grand Committee Second Day	19 January 2005	Vol.668 Column GC 249–306
Report First Day	7 February 2005	Vol.669 Column 615–654
Report Second Day	8 February 2005	Vol.669 Column 692–734
Third Reading	28 February 2005	Vol.670 Column 13–48
House of Commons		
First Reading	1 March 2005	House of Commons Votes and Proceedings
Second Reading	15 March 2005	Vol.432 Column 149–218
Standing Committee 1st sitting	22 March 2005	Standing Committee B Column 1–36
Standing Committee 2nd sitting	22 March 2005	Standing Committee B Column 37–80
Standing Committee 3rd sitting	24 March 2005	Standing Committee B Column 81–106
Third Reading	6 April 2005	Vol.432 Column 1492–1499
House of Lords		
Consideration of Commons Amendments	7 April 2005	Vol.671 Column 889–911
Royal Assent		
House of Lords	7 April 2005	Vol.671 Column 950
House of Commons	7 April 2005	Vol.432 Column 1641

Modifications

s. 35(8)(a)	Inquiries Act 2005 c. 12, s. 44(3)
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