



# Inquiries Act 2005

## 2005 CHAPTER 12

### *Constitution of inquiry*

#### **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;
  - [<sup>F1</sup>(ba) the Welsh Ministers;]
  - <sup>F1</sup>(c) a Northern Ireland Minister;
  - <sup>F2</sup> .....
- (3) References in this Act to an inquiry, except where the context requires otherwise, are to an inquiry under this Act.

#### **Textual Amendments**

- F1** S. 1(2)(ba) inserted by Government of Wales Act 2006 (c. 32), s. 160(1), Sch. 10 para. 90, (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.
- F2** Words in s. 1(2) repealed by Government of Wales Act 2006 (c. 32), s. 160(1), 163, Sch. 10 para. 90, Sch. 12 (with Sch. 11 para. 22), the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial

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period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) - see ss. 46, 161(1)(4)(5) of the amending Act.

## 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.

### Modifications etc. (not altering text)

- C1** S. 2 modified (E.W.N.I.) (15.6.2017) by The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1142), arts. 1(2), 3; S.S.I. 2017/155, reg. 2

## 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.

## 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.

### Modifications etc. (not altering text)

- C2** S. 4 modified (E.W.N.I.) (15.6.2017) by The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1142), arts. 1(2), 3; S.S.I. 2017/155, reg. 2

## 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—

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- (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.

## **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.

## **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.

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## 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.

## 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.

## 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 in 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 [ <sup>F3</sup> , sheriff or summary 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) [<sup>F4</sup> In this section “sheriff principal” and “sheriff” have the same meaning as in the Sheriff Courts (Scotland) Act 1971 (c. 58). ]

#### Textual Amendments

- F3** Words in s. 10(1) substituted (S.) (1.4.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2015 (S.S.I. 2015/150), art. 1, **Sch. para. 8(2)**
- F4** S. 10(2) repealed (S.) (1.4.2015) by The Courts Reform (Scotland) Act 2014 (Consequential Provisions) Order 2015 (S.S.I. 2015/150), art. 1, **Sch. para. 8(3)**

## 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.

## 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;



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- (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)).

### **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.

## 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.

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### Modifications etc. (not altering text)

- C3** S. 14 applied (16.2.2009) by Counter-Terrorism Act 2008 (c. 28), ss. 74(2)(3), 91, 100, (with s. 101(2); S.I. 2009/58, art. 2(b)

**Changes to legislation:**

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