



# Inquiries Act 2005

## 2005 CHAPTER 12

### *Supplementary*

#### **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;

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(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.

### **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.

### **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.

### **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

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- (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.

### **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.

### **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,

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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.

**Changes to legislation:**

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