

INQUIRIES ACT 2005

EXPLANATORY NOTES

SCOTLAND, WALES AND NORTHERN IRELAND

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.