

*These notes refer to the Inquiries Act 2005 (c.12)  
which received Royal Assent on 7 April 2005*

# **INQUIRIES ACT 2005**

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## **EXPLANATORY NOTES**

### **SCOTLAND, WALES AND NORTHERN IRELAND**

#### ***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).