



Health and Care Act 2022

2022 CHAPTER 31

PART 4

THE HEALTH SERVICES SAFETY INVESTIGATIONS BODY

Investigatory powers etc

118 Powers of entry, inspection and seizure

- (1) If an investigator considers it necessary for the purposes of an investigation, the investigator may—
 - (a) enter and inspect premises in England, other than premises used wholly or mainly as a private dwelling;
 - (b) inspect and take copies of any document at, or capable of being viewed using equipment at, the premises;
 - (c) inspect any equipment or other item at the premises;
 - (d) seize and remove from the premises any document, equipment or other item (unless that would risk the safety of any patient).
- (2) In subsection (1)(b) the reference to inspecting and taking copies of any document includes requiring any document which is kept in electronic form to be produced in a form in which it is legible and can be taken away.
- (3) Where any document, equipment or other item is seized by an investigator, or any copy of a document is taken, it may be retained by the HSSIB for so long as is necessary for the purposes of the investigation.
- (4) An investigator exercising any power conferred by this section must, if asked, produce evidence of the investigator's authority from the HSSIB to act on its behalf.
- (5) The powers conferred by subsection (1) may be exercised in relation to premises in which there is a Crown interest, but only if the HSSIB gives reasonable notice to the occupier of the premises of its intention to enter and inspect the premises.

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- (6) But if the Secretary of State certifies that it appears to the Secretary of State appropriate in the interests of national security that the powers conferred by subsection (1)—
- (a) should not be exercisable in relation to any premises in which there is a Crown interest and which are specified in the certificate, or
 - (b) should not be exercisable in relation to any such premises which are so specified except in circumstances specified in the certificate,
- those powers are not exercisable in relation to those premises or (as the case may be) are not exercisable except in the circumstances specified.
- (7) In this section “Crown interest” means—
- (a) an interest belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
 - (b) an interest belonging to Her Majesty in right of the Crown;
 - (c) an interest belonging to Her Majesty in right of the Duchy of Lancaster;
 - (d) an interest belonging to the Duchy of Cornwall.

119 Powers to require information etc

- (1) An investigator may by notice require any person—
- (a) to attend at a specified time and place and to provide information by answering questions;
 - (b) to provide specified information, or information of a specified description, by a specified date;
 - (c) to provide specified documents, equipment or items, or documents, equipment or items of a specified description, by a specified date.
- (2) An investigator may give a person a notice only if the investigator reasonably believes that—
- (a) in the case of a requirement under subsection (1)(a), the person is able to provide information which is necessary for the purposes of an investigation;
 - (b) in the case of a requirement under subsection (1)(b)—
 - (i) it is necessary to obtain the information for the purposes of an investigation, and
 - (ii) the person is able to provide it;
 - (c) in the case of a requirement under subsection (1)(c)—
 - (i) it is necessary to obtain the document, equipment or other item for the purposes of the HSSIB’s investigation function, and
 - (ii) the person is able to provide it.
- (3) But a person is not required by virtue of subsection (1) to provide any information, document, equipment or other item where—
- (a) its provision would risk the safety of any patient,
 - (b) its provision might incriminate the person, or
 - (c) in the case of information or a document, the person would be entitled to refuse to provide it in any proceedings in any court on the grounds that it is the subject of legal professional privilege.
- (4) A notice must—
- (a) specify the grounds for the investigator believing the matters in subsection (2),

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- (b) give an explanation of the consequences of failing to comply with the notice (see section 121), and
 - (c) attach evidence of the investigator’s authority from the HSSIB to exercise the powers conferred by this section.
- (5) If a notice requires a person to provide anything which is kept in electronic form, the notice may require it to be provided in a form in which it is legible.
- (6) An investigator may withdraw a notice under subsection (1) by giving notice of withdrawal to the person to whom the notice was given.
- (7) Where any document, equipment or other item is provided to an investigator pursuant to a notice, it may be retained by the HSSIB for so long as is necessary for the purposes of the HSSIB’s investigation function, unless its retention would risk the safety of any patient.
- (8) Where a person attends to answer questions pursuant to a notice under subsection (1) (a), the HSSIB—
 - (a) must reimburse the person the reasonable costs incurred in attending;
 - (b) may record, by any means, the answers given.
- (9) In this section “specified” means specified in the notice.

120 Voluntary provision of information etc

A person may disclose any information, document, equipment or other item to the HSSIB if the person reasonably believes that the disclosure is necessary for the purpose of enabling the HSSIB to carry out its investigation function.

121 Offences relating to investigations

- (1) A person commits an offence if the person—
 - (a) intentionally obstructs an investigator in the performance of functions conferred by section 118, or
 - (b) fails without reasonable excuse to comply with a notice given under section 119.
- (2) A person commits an offence if the person provides information to the HSSIB for the purposes of the HSSIB’s investigation function which the person knows or suspects is false or misleading in a material respect.
- (3) It is a defence for a person charged with an offence under subsection (2) to show that—
 - (a) the person reasonably believed that the information would assist the HSSIB in carrying out its investigation function, and
 - (b) at the time of providing the information the person informed the HSSIB that the person knew or suspected that it was false or misleading.
- (4) If a person charged with an offence under subsection (2) relies on the defence under subsection (3), and evidence is adduced which is sufficient to raise an issue with respect to that defence, the court must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.
- (5) A person who commits an offence under this section is liable on summary conviction to a fine.

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- (6) Subsections (1)(a) and (5) apply to persons in the public service of the Crown as they apply to other persons.