

INQUIRIES ACT 2005

EXPLANATORY NOTES

CONVERSION OF INQUIRIES

Section 15: Power to convert other inquiry into inquiry under this Act

29. This section enables the Minister to convert an inquiry that is not being held under the Inquiries Act into an inquiry held under the Inquiries Act. In recent non-statutory inquiries, including Hutton and Bichard, the chairmen have stated that if formal powers were required, these would be made available to them by effectively converting to a statutory inquiry. Three recent health inquiries (Ayling, Neale, Kerr/Haslam) were converted from being held under a general power to do anything which related to the discharge of a Minister's duties (section 2 National Health Service Act 1977) into inquiries established under section 84 of the same Act which is a specific inquiry power with powers of compulsion.
30. The Minister may convert a non-statutory or statutory inquiry provided that he is satisfied that the matter the original inquiry was investigating fell within the scope of the circumstances in subsection (2), which are the same as those set out in section 1 of the Act. It is not intended that this power should be used to convert other types of inquiries, such as planning inquiries.
31. The Minister may, after consulting the chairman, change the terms of reference when converting the inquiry. This means that he can ensure that they fulfil the conditions set out in section 5. It may also be appropriate to alter the terms of reference if, for example, the inquiry is being converted because it has become clear that the scope of the original inquiry was too narrow, and a broader inquiry power is needed. The requirement to keep the relevant Parliament or Assembly advised (under section 6) applies also to converted inquiries.

Section 16: Inquiries converted under section 15

32. This section makes provision for inquiries converted under section 15. Orders made under the original inquiry may only be enforced using powers that the inquiry had at the time of making the order. For example, if the chairman of a converted inquiry had made a request for evidence prior to conversion, he could not prosecute an individual under section 35 for failure to comply. He would have to issue a notice under section 21, using the inquiry's new powers of compulsion first. Once an inquiry has been converted, the appointment of the original panel members continues as if made under this Act and is subject to the provisions of section 12.