



# National Health Service Reorganisation Act 1973

## 1973 CHAPTER 32

### PART III

#### THE HEALTH SERVICE COMMISSIONERS FOR ENGLAND AND FOR WALES

#### 34 Matters subject to investigation

- (1) In this Part of this Act " relevant body " means any of the following bodies, namely—
- (a) Regional Hospital Boards ;
  - (b) Boards of Governors ;
  - (c) Hospital Management Committees ;
  - (d) Executive Councils;
  - (e) Regional Health Authorities ;
  - (f) Area Health Authorities;
  - (g) any special health authority established on or before the appointed day;
  - (h) any special health authority which is established after that day and is designated by Order in Council as an authority to which this paragraph applies ;
  - (i) Family Practitioner Committees ; and
  - (j) the Public Health Laboratory Service Board ;

and, except where the context otherwise requires, any reference in this Part of this Act to a relevant body includes a reference to an officer of the body.

- (2) The Health Service Commissioner for England shall not conduct an investigation under this Part of this Act in respect of the Welsh Hospital Board, any Hospital Management Committee responsible for hospitals in Wales, any Executive Council or Area Health Authority of which the area is in Wales, the Family Practitioner Committee established by such an Authority, or a special health authority exercising functions only or mainly in Wales, and the Health Service Commissioner for Wales

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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shall not conduct such an investigation in respect of a relevant body other than one of the bodies aforesaid.

- (3) Subject to the provisions of this section, a Commissioner may investigate—
- (a) an alleged failure in a service provided by a relevant body; or
  - (b) an alleged failure of a relevant body to provide a service which it was a function of the body to provide ; or
  - (c) any other action taken by or on behalf of a relevant body,
- in a case where a complaint is duly made by or on behalf of any person that he has sustained injustice or hardship in consequence of the failure or in consequence of maladministration connected with the other action.
- (4) Except as hereafter provided, a Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters—
- (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment or by virtue of Her Majesty's prerogative;
  - (b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:
- Provided that a Commissioner may conduct an investigation notwithstanding that the person aggrieved has or had such a right or remedy, if satisfied that in the particular circumstances it is not reasonable to expect him to resort or have resorted to it.
- (5) Without prejudice to the preceding subsection, a Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action as is described in Schedule 3 to this Act; and nothing in this section shall be construed as authorising such an investigation in respect of action taken in connection with any general medical services, general dental services, general ophthalmic services or pharmaceutical services by a person providing the services.
- (6) Her Majesty may by Order in Council amend the said Schedule 3 so as to exclude from the provisions of that Schedule action described in paragraph 3 or 4 of the Schedule.
- (7) In determining whether to initiate, continue or discontinue an investigation under this Part of this Act, a Commissioner shall, subject to the preceding provisions of this section, act in accordance with his own discretion; and any question whether a complaint is duly made to a Commissioner under this Part of this Act shall be determined by the Commissioner.