



National Health Service Act 1977

1977 CHAPTER 49

PART III

OTHER POWERS OF THE SECRETARY OF STATE AS TO THE HEALTH SERVICE

Inquiries, and default and emergency powers

84 Inquiries

- (1) The Secretary of State may cause an inquiry to be held in any case where he deems it advisable to do so in connection with any matter arising under this Act.
- (2) For the purpose of any such inquiry (but subject to subsection (3) below) the person appointed to hold the inquiry—
 - (a) may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
 - (b) may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.
- (3) Nothing in this section—
 - (a) requires a person, in obedience to a summons under the section, to attend to give evidence or to produce any documents unless the necessary expenses of his attendance are paid or tendered to him ; or
 - (b) empowers the person holding the inquiry to require the production of the title, or of any instrument relating to the title, of any land not being the property of a local authority.
- (4) Any person who refuses or deliberately fails to attend in obedience to a summons under this section, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this section, shall be liable on

Status: This is the original version (as it was originally enacted).

summary conviction to a fine not exceeding £100 or to imprisonment for a term not exceeding 6 months, or to both.

- (5) Where the Secretary of State causes an inquiry to be held under this section—
- (a) the costs incurred by him in relation to the inquiry (including such reasonable sum not exceeding £30 a day as he may determine for the services of any officer engaged in the inquiry) shall be paid by such local authority or party to the inquiry as he may direct, and
 - (b) he may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by any authority or person shall be recoverable from that authority or person by the Secretary of State summarily as a civil debt.

No local authority shall be ordered to pay costs under this subsection in the case of any inquiry unless it is a party to that inquiry.

- (6) Where the Secretary of State causes an inquiry to be held under this section he may make orders—
- (a) as to the costs of the parties at the inquiry, and
 - (b) as to the parties by whom the costs are to be paid,
- and every such order may be made a rule of the High Court on the application of any party named in the order.

85 Default powers

- (1) Where the Secretary of State is of opinion, on complaint or otherwise, that—
- (a) any Regional Health Authority ;
 - (b) any Area Health Authority;
 - (c) any special health authority;
 - (d) any Family Practitioner Committee ;
 - (e) any local social services authority;
 - (f) the Medical Practices Committee ; or
 - (g) the Dental Estimates Board ;
- have failed to carry out any functions conferred or imposed on them by or under this Act, or have in carrying out those functions failed to comply with any regulations or directions relating to those functions, he may after such inquiry as he may think fit make an order declaring them to be in default.
- (2) Except where the body in default is a local social services authority, the members of the body shall forthwith vacate their office, and the order—
- (a) shall provide for the appointment, in accordance with the provisions of this Act, of new members of the body; and
 - (b) may contain such provisions as seem to the Secretary of State expedient for authorising any person to act in the place of the body in question pending the appointment of new members.
- (3) If the body in default is a local social services authority—
- (a) the order shall direct them, for the purpose of remedying the default, to discharge such of their functions, in such manner and within such time or times, as may be specified in the order; and

- (b) if the authority fail to comply with any direction given under this subsection within the time so limited, the Secretary of State, instead of enforcing the order by mandamus or otherwise, may make an order transferring to himself such of the functions of the authority as he thinks fit.
- (4) Any expenses certified by the Secretary of State to have been incurred by him in discharging functions transferred to him under this section from a local social services authority shall on demand be paid to him by that authority and shall be recoverable by him from them as a debt due to the Crown; and
- (a) the authority or (in the case of a joint board) any constituent local authority thereof shall have the like power of raising the money required as they have of raising money for paying expenses incurred directly by them ; and
 - (b) the payment of any such expenses so incurred by the Secretary of State shall, to such extent as he may sanction, be a purpose for which the authority may borrow money in accordance with the statutory provisions relating to borrowing by that authority.
- (5) An order made under this section may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient, including—
- (a) provision for the transfer to the Secretary of State of property and liabilities of the body in default; and
 - (b) where any such order is varied or revoked by a subsequent order, provision in the revoking order or a subsequent order for the transfer to the body in default of any property or liabilities acquired or incurred by the Secretary of State in discharging any of the functions transferred to him.

86 Emergency powers

If the Secretary of State—

- (a) considers that by reason of an emergency it is necessary, in order to ensure that a service falling to be provided in pursuance of this Act is provided, to direct that during the period specified by the directions a function conferred on any body or person by virtue of this Act shall to the exclusion of or concurrently with that body or person be performed by another body or person, then
- (b) he may give directions accordingly and it shall be the duty of the bodies or persons in question to comply with the directions.

The powers conferred on the Secretary of State by this section are in addition to any other powers exercisable by him.