



# Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013

## 2013 CHAPTER 2

An Act to make provision relating to an inquiry into institutional abuse between 1922 and 1995. [18th January 2013]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### *The inquiry*

#### **The inquiry**

1.—(1) The First Minister and deputy First Minister acting jointly may cause an inquiry to be held under this Act (“the inquiry”).

(2) The terms of reference of the inquiry are as set out in a statement to the Assembly made by the First Minister and deputy First Minister acting jointly on 18th October 2012.

(3) The First Minister and deputy First Minister acting jointly may at any time amend the terms of reference of the inquiry by order after consulting the chairperson if a draft of the order has been laid before, and approved by resolution of, the Assembly.

(4) The inquiry may be known as the Inquiry into Historical Institutional Abuse 1922 to 1995.

(5) The inquiry panel—

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- (a) must not rule on; and
  - (b) has no power to determine,
- any person's civil or criminal liability.

### **Appointment of members**

2.—(1) Each member of the inquiry panel must be appointed by the First Minister and deputy First Minister acting jointly by an instrument in writing.

(2) The First Minister and deputy First Minister acting jointly must consult the person they have appointed, or propose to appoint, as the chairperson before they appoint any other member of the inquiry panel under subsection (1).

(3) The First Minister and deputy First Minister acting jointly may at any time during the course of the inquiry appoint an additional member to the inquiry panel—

- (a) to fill a vacancy that has arisen in the panel (including a vacancy in the position of chairperson), or
- (b) to increase the number of members of the panel.

(4) The power to appoint a member under subsection (3) is exercisable only with the consent of the chairperson (except in the case of a vacancy in the position of chairperson).

(5) The power to appoint a replacement chairperson may be exercised by appointing a person who is already a member of the inquiry panel.

### **Duration of appointment of members**

3.—(1) Subject to the following provisions of this section, a member of the inquiry remains a member until the inquiry comes to an end (or until the member's death if the member dies before then).

(2) A member of the inquiry panel may at any time resign by notice to the First Minister and deputy First Minister.

(3) The First Minister and deputy First Minister acting jointly may at any time by notice terminate the appointment of a member of the inquiry panel—

- (a) on the ground that, by reason of physical or mental illness or for any other reason, the member is unable to carry out the duties of a member of the inquiry panel;
- (b) on the ground that the member has failed to comply with any duty imposed on the member in relation to the inquiry;
- (c) on the ground that the member has—
  - (i) a direct interest in the matters to which the inquiry relates, or
  - (ii) a close association with an interested party,

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such that the impartiality of the inquiry panel could reasonably be regarded as affected by that member;

- (d) on the ground that the member has, since being appointed, been guilty of any misconduct that makes the member unsuited to membership of the inquiry panel.

(4) In determining whether subsection (3)(a) applies in a case where the inability to carry out the duties is likely to be temporary, the First Minister and deputy First Minister acting jointly may have regard to the likely duration of the inquiry.

(5) The First Minister and deputy First Minister acting jointly may not terminate a member's appointment under subsection (3)(c) if they were aware of the interest or association in question when appointing the member.

(6) Before exercising its powers under subsection (3) in relation to a member other than the chairperson, the First Minister and deputy First Minister acting jointly must consult the chairperson.

(7) Before exercising their powers under subsection (3) in relation to any member of the inquiry panel, the First Minister and deputy First Minister acting jointly must—

- (a) inform the member of the proposed decision and of the reasons for it, and take into account any representations made by the member in response, and
- (b) if the member so requests, consult the other members of the inquiry panel (to the extent that no obligation to consult them arises under subsection (6)).

### **Assessors**

4.—(1) The chairperson may appoint one or more persons to act as assessors to assist the inquiry panel.

(2) A person may be appointed as an assessor only if it appears to the chairperson that the person has expertise that makes the person a suitable person to provide assistance to the inquiry panel.

(3) The chairperson may at any time terminate the appointment of an assessor.

### **End of inquiry**

5.—(1) For the purposes of this Act the inquiry comes to an end—

- (a) on the date, after the delivery of the report of the inquiry, on which the chairperson notifies the First Minister and deputy First Minister that the inquiry has fulfilled its terms of reference; or
- (b) on any earlier date specified in a notice given to the chairperson by the First Minister and deputy First Minister acting jointly.

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(2) The date specified in a notice under subsection (1)(b) may not be earlier than the date on which the notice is sent.

(3) Before exercising their power under subsection (1)(b) the First Minister and deputy First Minister acting jointly must consult the chairperson.

(4) Where the First Minister and deputy First Minister acting jointly give a notice under subsection (1)(b) they must—

- (a) set out in the notice their reasons for bringing the inquiry to an end;
- (b) lay a copy of the notice, as soon as is reasonably practicable, before the Assembly.

### *Inquiry proceedings*

#### **Evidence and procedure**

6.—(1) Subject to any provision of this Act or of rules under section 21, the procedure and conduct of the inquiry are to be such as the chairperson may direct.

(2) In particular, the chairperson may take evidence on oath, and for that purpose may administer oaths.

(3) Subject to any provision of rules under section 21, a statement made to the inquiry on oath by a person outside Northern Ireland through a live link is to be treated for the purposes of Article 3 of the Perjury (Northern Ireland) Order 1979 as having been made in Northern Ireland.

(4) In making any decision as to the procedure or conduct of the inquiry, the chairperson must act with fairness and with regard also to the need to avoid any unnecessary cost (whether to public funds or to witnesses or others).

(5) In this section “live link” means a live television link or other arrangement whereby a person, while absent from the place where the inquiry is being held, is able to see and hear, and be seen and heard by, a person at that place.

(6) For the purposes of subsection (5) any impairment of sight or hearing is to be disregarded.

#### **Public access to inquiry proceedings and information**

7.—(1) Subject to subsection (3) and any restrictions imposed by an order under section 8, the chairperson must take such steps as the chairperson considers reasonable to secure that members of the public (including reporters) are able—

- (a) to attend the inquiry or to see and hear a simultaneous transmission of proceedings at the inquiry;
- (b) to obtain or to view a record of evidence and documents given, produced or provided to the inquiry or inquiry panel.

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(2) No recording or broadcast of proceedings at the inquiry may be made except—

- (a) at the request of the chairperson; or
- (b) with the permission of the chairperson and in accordance with any terms on which permission is given.

(3) The proceedings of that part of the inquiry described in its terms of reference as the Acknowledgment Forum are to be held in private and references to the inquiry in subsection (1) do not include that part of the inquiry.

**Restrictions on public access, etc.**

**8.—**(1) Restrictions may, in accordance with this section, be imposed on—

- (a) attendance at the inquiry, or at any particular part of the inquiry;
- (b) disclosure or publication of any evidence or documents given, produced or provided to the inquiry;
- (c) disclosure or publication of the identity of any person.

(2) Restrictions may be imposed by being specified in an order (a “restriction order”) made by the chairperson during the course of the inquiry.

(3) A restriction order must specify only such restrictions—

- (a) as are required by any statutory provision, enforceable EU obligation or rule of law, or
- (b) as the chairperson considers to be conducive to the inquiry fulfilling its terms of reference or to be necessary in the public interest, having regard in particular to the matters mentioned in subsection (4).

(4) Those matters are—

- (a) the extent to which any restriction on attendance, disclosure or publication might inhibit the allaying of public concern;
- (b) any risk of harm or damage that could be avoided or reduced by any such restriction;
- (c) any conditions as to confidentiality subject to which a person acquired information which that person is to give, or has given, to the inquiry;
- (d) the extent to which not imposing any particular restriction would be likely—
  - (i) to cause delay or to impair the efficiency or effectiveness of the inquiry, or
  - (ii) otherwise to result in additional cost (whether to public funds or to witnesses or others).

(5) The chairperson may vary or revoke a restriction order by making a further order during the course of the inquiry.