



## 2013 CHAPTER 2

### *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—

- (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,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.

(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.