



STATUTORY INSTRUMENTS.

S.I. No. 197 of 2017



GARDA SÍOCHÁNA ACT 2005 (SECTION 42) (SPECIAL INQUIRY
RELATING TO THE GARDA SÍOCHÁNA) (NO.2) ORDER 2017

GARDA SÍOCHÁNA ACT 2005 (SECTION 42) (SPECIAL INQUIRY
RELATING TO THE GARDA SÍOCHÁNA) (NO.2) ORDER 2017

WHEREAS I, FRANCES FITZGERALD, Minister for Justice and Equality, consider the matter specified in Article 2 of the following Order to be of public concern;

AND WHEREAS I have, in accordance with subsections (1) and (3A) of section 42 (amended by section 35 of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 (No. 49 of 2015)) of the Garda Síochána Act 2005 (No. 20 of 2005), consulted with the Policing Authority in relation to that matter;

AND WHEREAS I am of the opinion that the person specified in the said Article 2 has appropriate experience, qualifications, training and expertise for the purposes of the said section 42 to conduct an inquiry into the said matter of public concern:

NOW, I, FRANCES FITZGERALD, Minister for Justice and Equality, in exercise of the powers conferred on me by section 42 (amended by section 35 of the Garda Síochána (Policing Authority and Miscellaneous Provisions) Act 2015 (No. 49 of 2015)) of the Garda Síochána Act 2005 (No. 20 of 2005) (adapted by the Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 138 of 2011)), and having consulted the Policing Authority, hereby order as follows:

1. (1) This Order may be cited as the Garda Síochána Act 2005 (Section 42)(Special Inquiry relating to the Garda Síochána)(No.2) Order 2017.
- (2) This Order shall come into operation on 15 May 2017.
2. His Honour Judge Donagh McDonagh, retired judge of the Circuit Court, is hereby appointed to—
 - (a) inquire into a matter of public concern, namely the conduct and adequacy of the investigations conducted by the Garda Síochána into the death of Mr. Shane Tuohey in February 2002 in Clara, County Offaly, and
 - (b) make a report to the Minister on the conclusion of the inquiry.
3. The terms of reference of the inquiry are specified in the Schedule.

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 19th May, 2017.*

SCHEDULE

Terms of Reference

The inquiry should have regard to the following objectives of establishing—

- (a) the circumstances surrounding the death of Mr. Shane Tuohey in so far as they are relevant to the purpose of this Inquiry set out in Article 2(a);
- (b) the content and significance of any available CCTV footage from the town of Clara, Co. Offaly and The Mill House nightclub relevant to the disappearance of Mr. Shane Tuohey;
- (c) The significance of the pathology evidence obtained by the Tuohey family and the consideration given to it by the Garda Síochána in the light of the views expressed by the state pathology services at various stages of the investigation.
- (d) the content and significance of possible inconsistencies in witness statements given in 2002 with those given at any other time including those given in 2006.



GIVEN under my Official Seal,
15 May 2017.

FRANCIS FITZGERALD,
Minister for Justice and Equality.

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