



STATUTORY INSTRUMENTS.

**S.I. No. 198 of 2017**



GARDA SÍOCHÁNA ACT 2005 (SECTION 42) (SPECIAL INQUIRY  
RELATING TO THE GARDA SÍOCHÁNA) (NO.3) ORDER 2017

GARDA SÍOCHÁNA ACT 2005 (SECTION 42) (SPECIAL INQUIRY  
RELATING TO THE GARDA SÍOCHÁNA) (NO.3) 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.3) Order 2017.

(2) This Order shall come into operation on 15 May 2017.

2. The Honourable Mr. Justice Daniel Herbert, retired judge of the High Court, is hereby appointed to—

(a) inquire into a matter of public concern, namely—

(i) responses made on the night of the death of Mr. John Kelly at Britain Quay, Dublin 2 on 17 October 2008 by the Garda Síochána, and

(ii) the conduct and adequacy of the Garda Síochána investigation conducted thereafter,

and

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

- (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.

SCHEDULE

Terms of Reference

The objective of the inquiry should be the establishment of—

- (a) the matters set out in Article 2(a);
- (b) the content and significance of information provided by the Garda Síochána to the family of Mr. John Kelly in relation to injuries sustained by the deceased;
- (c) the content and significance of information provided by the Garda Síochána to the family of Mr. John Kelly in relation to the condition and whereabouts of the clothes of the deceased and any forensic examination of same;
- (d) the appropriateness or otherwise of the appointment made by the Garda Síochána to a subsequent inquiry by the Garda Síochána Ombudsman Commission (GSOC);
- (e) the appropriateness or otherwise of Garda communication with members of the Kelly family, including at subsequent meetings with them;
- (f) the content and significance of any testimonies given by witnesses to the death, including civilians who telephoned emergency services;
- (g) the response of the Gardaí to the emergency telephone calls made shortly before Mr. John Kelly's death.



GIVEN under my Official Seal,  
15 May 2017.

FRANCIS FITZGERALD,  
Minister for Justice and Equality.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
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