

INQUIRIES ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Constitution of Inquiry

Section 5: Setting-up date and terms of reference

12. **Section 5** requires the Minister to specify a setting-up date and terms of reference for the inquiry. The setting-up date given by the Minister is the date the inquiry formally comes into existence as an independent body. This date is purely a formality and need not relate to any other event connected with setting up the inquiry, such as an opening meeting. Before this date an inquiry will not begin considering evidence. It might, however, begin taking some practical steps to find premises and staff.
13. An inquiry is set up to investigate a particular set of circumstances. The remit of the inquiry must be set out by the Minister in the terms of reference before the setting-up date. The Minister must consult with the chairman when either setting or changing the terms of reference. The Act does not contain any specific requirement for the Minister to consult other individuals or organisations, but they can be consulted if the Minister considers it appropriate in the particular circumstances. The period of time leading to the setting-up date could be used for consultation.
14. The type of information contained in the terms of reference will vary from inquiry to inquiry. For example, the terms for the Victoria Climbié and Shipman inquiries were fuller than those used for the Bloody Sunday inquiry. In some cases it might be appropriate to specify a date by which the inquiry is asked to report, or the level of urgency. The definition of terms of reference in this Act is wide in order to allow for appropriate terms of reference to be set for a wide range of inquiries under this section. Under subsection (6)(c) of section 5, the Minister must specify whether the inquiry is asked to make recommendations. However, section 24(1), which is concerned with inquiry reports, makes it clear that the panel may make recommendations even if this was not a requirement in the terms set by the Minister.