



An Coimisiún Imscrúdúcháin

**(Gníomhaireacht Náisiúnta
um Bhainistíocht Sócmhainní)**

**Commission of
Investigation**

**(National Asset
Management Agency)**

**The Honorable John D. Cooke
Sole Member**

Tenth Interim Report

12th March 2021

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Tenth Interim Report of the Commission of Investigation (National Asset Management Agency) and Request for the revision of the timeframe for submitting the Final Report under section 6(6) of the Commissions of Investigation Act 2004

1. The Commission submits this Tenth Interim Report pursuant to sections 6(6) and 33 of the Commissions of Investigation Act 2004 with, for the reasons set out below, a request for revision of the timeframe for submission of its Final Report. So far as concerns the outline of the Commission's approach to the issues identified in paragraph 2 of the Terms of Reference and the production and analysis of documentation, this Report should be read in conjunction with the previous Interim Reports referred to below.
2. The Commission's First Interim Report, as required by paragraph 8 of its Terms of Reference, was submitted on 12th September 2017. Further Interim Reports were submitted on 17th May 2018, 30th November 2018, 10th June 2019, 4th December 2019, 24th February 2020, 8th June 2020, 28th August 2020 and 29th November 2020 following which the timeframe for completion was successively extended until the current date of 31st March 2021.
3. The renewed and enhanced Level 5 pandemic restrictions combined with the outcome of the unanticipated development in the investigation mentioned in the Ninth Interim Report have brought about a situation in which the Commission finds it necessary to request a further extension of the timeframe for submission of the Final Report.
4. Firstly, the effects of the enhanced pandemic restrictions under Level 5 which came into effect after the last Interim Report, have been far greater than had been anticipated. The impact of those restrictions on the circumstances of members of the Commission team has significantly slowed the Commission's progress in the collaborative work of drafting its final report. Since January 2021 the office of the Commission has had

to operate on the basis that only a skeleton staff may be present at any time.

5. Secondly, the Ninth Interim report mentioned the important new development that had then recently arisen namely, that an individual who had previously declined to assist the investigation agreed to be available to provide a statement. The individual provided that statement and, as a result, subsequently agreed to provide sworn oral evidence.
6. With some difficulty due to the pandemic restrictions applicable both in the State and at the location of the witness, arrangements were made to take the sworn evidence by video conference in early February 2021.
7. Under section 12 of the Commissions of Investigation Act 2004, the Commission is obliged to disclose to a witness the substance of any evidence in its possession which it considers the witness should be made aware of.
8. During two days of hearing it became clear that the evidence offered or likely to be given by the witness would benefit from the addition of supplemental documentation beyond the brief of materials which the Commission had provided in advance in accordance with the requirements of section 12 of the Act.
9. As of the date of this report the Commission expects that the hearing of the witness will be resumed and completed within a fortnight.
10. As had been indicated in the Ninth Interim Report, prior to the new witness becoming available, the Commission's work towards the preparation of a first draft of a final report had been well advanced. In the areas unlikely to be affected by the evidence of the new witness, that work has continued so far as possible under the Level 5 restrictions.

11. Once the hearing of the witness is concluded the Commission will adjust and amend the draft texts of the report to incorporate where necessary the newly received evidence.

12. In these circumstances, it is obviously now impossible for the Commission to meet the current time frame deadline of 31 March 2021.

13. On the understanding that the present enhanced restrictions of Level 5 which have affected the Commission's work will be continued until at least the month of April, and subject to the inherent uncertainties of the various factors and events mentioned above, the Commission estimates that a further period of six months will be needed to complete the stages required in order to submit a final report and to comply with the consequential obligations of the Act of 2004.

14. The outstanding stages to be completed can be summarised as follows:

- a) Resumption and completion of the evidence hearing;
- b) Review of the transcripts of new evidence in order to supply the substance of relevant parts (if any) to earlier witnesses in accordance with section 12;
- c) Subject to b) above, the revision and completion of the first draft of the final report in preparation for its notification under section 34 of the Act to identified or identifiable persons;
- d) Allow for the distribution of the report under section 34 and the receipt and consideration of any submissions or applications made under sections 35-36 of the Act;
- e) As the Commission will stand automatically dissolved under section 43 of the Act (subject to section 44) upon submission of the final report, allowance must be made to deal with any applications for costs under section 24 of the Act. It is anticipated that this process may be put in hand during the weeks allocated to the section 34 exercise at d) above.

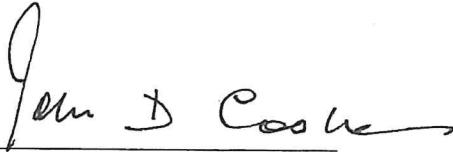
15. Subject to no further issues arising, the aggregate timescale for the periods to complete the steps described above, is estimated by the

Commission as requiring a further period of 24 weeks from the expiry of the current time frame for the submission of the Final Report.

16. Accordingly, in the restricted circumstances affecting its work, the Commission finds itself obliged, for the reasons given above, to request a further extension of the time frame fixed by its Terms of Reference until 30 September 2021. If the steps outlined above can be completed earlier than estimated, the Final Report will be submitted in advance of that date.

Delivered to the Taoiseach as the specified Minister and in accordance with the provisions of Section 32 of the Commissions of Investigation Act 2004.

On the 12th day of March 2021

A handwritten signature in black ink, appearing to read "John D. Cooke", written over a horizontal line.

John D. Cooke
Sole Member of the Commission