



An Coimisiún Imscrúdúcháin

**(Gníomhaireacht Náisiúnta um Bhainistíocht
Sóchhainní)**

Commission of Investigation

**(National Asset Management
Agency)**

**Susan Gilvarry
Sole Member**

Fifteenth Interim Report

30th January 2023

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Fifteenth 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 Fifteenth 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.
2. 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.
3. 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, 29th November 2020, 12th March 2021, 6th September 2021, 23rd November 2021, 24th February 2022, and 13th June 2022, following which reports the timeframe for completion was successively extended until the current date of 28th February 2023.
4. For the reasons set out below, the Commission finds it necessary to request a further extension of the timeframe for submission of the Final Report.
5. As mentioned in the Fourteenth Interim Report dated 13th June 2022, the Author of this Interim Report was appointed Sole Member to the Commission on 9th June 2022 following the untimely death of the former Sole Member of the Commission, Mr Justice John D. Cooke. This is therefore the Author's second interim report.
6. Section 7(8) of the Commissions of Investigation Act 2004, as amended, makes clear that the appointment of the Author of this Interim Report as Sole Member did not affect decisions made or actions taken by the Commission by the former Sole Member of the Commission.
7. To assist her in her role, the Author applied to, and was granted sanction by, the relevant authorities, to retain the services of a Solicitor to the Commission and a Senior Counsel. The retention of a Senior Counsel was required to provide continuing advice on the complex legal issues arising at this stage of the Commission's investigation. The Solicitor took up her position on 1st September 2022. The Senior Counsel took up his position on 7th October 2022.
8. It should be noted that in terms of resources, aside from its very limited administrative resources, the Commission has historically had a small legal team. It had retained a limited

legal team of five Junior Counsel and did not instruct any documentary Junior Counsel notwithstanding the breadth of the investigation and the volume of documentation received. The Commission had not sought the assistance or advice of Senior Counsel prior to the Author's appointment which was exceptional when one compares this Commission to other Commissions of similar size and complexity. This approach was adopted because the Commission was and remains conscious of its duty to limit legal fees incurred insofar as possible.


9. The Author proceeded as outlined at paragraph 5 of the Fourteenth Interim Report.
10. The Author proceeded to review the preliminary investigation conducted by the Commission of the evidence and documentation received by the Commission. The Author also reviewed the determinations made by the former Sole Member of the Commission of what was considered to be evidence and documentation relevant to the matters into which the Commission is obliged by its Terms of Reference to investigate and report upon. Having done so, the Author then reviewed the transcripts of the oral evidence provided to the Commission and proceeded to consider the provisional text of the draft report prepared by the former Sole Member.
11. The Author concluded this review and consideration, which proved to be a complex logistical task, and then proceeded to identify several discrete issues upon which the Commission required further legal and expert assistance.
12. On receipt of this legal and expert assistance, the Commission entered into correspondence with a number of affected parties seeking assistance in relation to the issues raised. This engagement was necessitated by section 12 of the Commissions of Investigation Act 2004, as amended. The Commission afforded affected parties a reasonable period within which to respond comprehensively to the issues raised, with the benefit of legal and expert assistance where appropriate. This process is ongoing.
13. The Commission has also, in parallel to this work, continued in the preparation and finalisation of its Final Draft Report. This work is at an advanced stage. It should be noted that both elements of this parallel process have inputted, and continue to input, into each other.
14. As indicated in the Fourteenth Interim Report, once the Final Draft Report is finalised, the Commission will thereafter commence the exercise of circulating the draft final report or relevant parts of the text to persons who are identified in it or identifiable from it as required by section 34(1) of the Commissions of Investigation Act 2004. Those persons circulated with the draft report or relevant part of the text will, at the same time, be provided with a

notice from the Commission specifying the time allowed for making (a) submissions or requests to the Commission under section 35 (1)(a) or 36(1), and (b) applications to the Court under section 35 (1)(b). This notice is required by section 34(2) of the Commissions of Investigation Act 2004. It should be noted that some of these persons reside outside the jurisdiction.

15. The Commission looks forward to the assistance it will receive through the receipt of submissions made pursuant to section 34(2) of the Commissions of Investigation Act 2004 and will take all submissions received into account in formulating its Final Report. A reasonable period will be provided to persons to make submissions pursuant to section 34(2) and to the Commission to consider the impact of those submissions on the Draft Final Report.
16. The Commission will then be required to invite, consider, and determine, requests for recovery of legal costs necessarily incurred and certain other expenses pursuant to section 24 of the Commissions of Investigation Act 2004.
17. In these circumstances, in order to provide for the remaining steps indicated above to be taken in a reasonable, efficient, and expeditious manner, it is necessary for the Commission to request an extension of the timeframe for the submission of its Final Report until the 31st October 2023.

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 30th day of January 2023



Susan Gilvarry,
Sole Member of the Commission