

APPENDIX 12

DRAFT INTERIM REPORT NOTICE



Coimisiún Imscrúdacháin
ar Earnáil na Baincéireachta in Éirinn

Commission of Investigation
into the Banking Sector in Ireland

Peter Nyberg
Sole member

Draft Interim Report Notice

The Commission of Investigation into the Banking Sector in Ireland is required by Section 34(2) of the Commissions of Investigation Act 2004 to give you notice in writing specifying the time allowed for making:

- (a) submissions or requests to the commission under section 35(1)(a) or section 36(1) and,
- (b) applications to the High Court under section 35(1)(b)

of the Commissions of Investigation Act 2004.

This is an important notice. The commission invites you to read this notice carefully. The contents of this notice contain matters that, in the opinion of the commission, concern you.

If you have any questions in relation to the matters contained in this notice you are invited, should you consider it appropriate to do so, to contact the commission for such information or assistance as it may be in a position to provide to you.

Contact may be made as follows:

Postal address:	Commission of Investigation into the Banking Sector in Ireland, Lansdowne House, Ballsbridge, Dublin 4.
E-mail:	information@bankinginquiry.gov.ie
Telephone:	01-604 5071
Fax:	01-604 5172
Website:	www.bankinginquiry.gov.ie

Introduction

The Commission of Investigation into the Banking Sector in Ireland has prepared a draft interim report in relation to its investigation into the matters specified in its terms of reference. A copy of the draft report or part of the draft report is set out in **Schedule 1** of this notice.

The purpose of this notice is to afford you an opportunity within the time period specified by the commission to exercise your statutory rights under the Commissions of Investigation Act 2004 to make submissions or requests to the commission, or applications to the Court concerning the draft report or part of the draft report.

The terms of reference of the Commission of Investigation into the Banking Sector in Ireland are set out in an Order of the Government made on 21 September 2010 and published in *Iris Oifigiúil* on 24 September 2010. A copy of these terms of reference is set out in **Schedule 2** of this notice.

The commission wishes to bring to your notice the provisions of sections 34, 35, 36 and 37 of the Commissions of Investigation Act 2004. A copy of the text of the Commissions of Investigation Act 2004 is set out in **Schedule 3** of this notice.

Section 34

Section 34 of the Commissions of Investigations Act 2004 provides:

34. (1) Before submitting the final or an interim report to the specified Minister, a commission shall send a draft of the report, or the relevant part of the draft report, to any person who is identified in or identifiable from the draft report.
 - (2) The draft report must be accompanied by 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).
- (3) For the purposes of this section and section 35, a person is identifiable from a draft report if the report contains information that could reasonably be expected to lead to the person's identification.

Section 35

Section 35 of the Commissions of Investigation Act 2004 provides:

- 35.-(1) A person who receives a draft report or part of a draft report from a commission under section 34 and who believes that the commission has not observed fair procedures in relation to the person may, within the period specified by the commission-
- (a) submit to the commission a written statement setting out the reasons for the belief and requesting the commission to review the draft in the light of the statement, or
 - (b) apply to the Court for an order directing that the draft be amended before the submission of the report to the specified Minister.
- (2) After considering a statement submitted under subsection (1)(a) and reviewing the draft report, the commission may-
- (a) amend the report, including by omitting any part of the report based on evidence received without observing fair procedures,
 - (b) apply to the Court for directions, or
 - (c) submit the report to the specified Minister without making any amendments.
- (3) After hearing an application under subsection (1)(b) or (2)(b), the Court may make any order or give any directions it thinks fit, including a direction to the commission to do one or more of the following:
- (a) submit the draft report to the specified Minister without making any amendments;
 - (b) give a person specified by the Court an opportunity to give any evidence or make any submissions that it considers should, in the interests of fair procedures, be received by the commission before the draft report is finalised;
 - (c) submit the draft report to the specified Minister after making such amendments as the Court may direct.

- (4) Before submitting the report to the specified Minister, the commission shall give written notice of any amendments made under this section to any person who is identified by the amendments.

Section 36

Section 36 of the Commissions of Investigation Act 2004 provides:

36.-(1) A person who receives a draft of a report or part of a draft report from a commission under section 34 may, within a period specified by the commission, request the commission to omit from the report any information provided by the person to the commission-

- (a) that the person considers to be commercially sensitive, and
 - (b) the disclosure of which is not, in the person's opinion, necessary for the purposes of the investigation.
- (2) After considering the request, the commission shall review the draft report and may, if satisfied that the information is commercially sensitive and that its disclosure is not necessary for the purposes of the investigation, omit the information from the report.
- (3) For the purposes of this section, information is commercially sensitive if its disclosure could reasonably be expected to-
- (a) materially prejudice the commercial or industrial interests of the person who provided that information to the commission or of a group or class of persons to which that person belongs, or
 - (b) prejudice the competitive position of a person in the conduct of the person's business, profession or occupation.

Time

The commission is required to specify the time allowed to you for making:

- (a) submissions or requests to the commission under section 35(1)(a) or section 36(1), and
- (b) applications to the Court under section 35(1)(b)

of the Commissions of Investigation Act 2004.

The time specified to you to make submissions or requests to the commission, or applications to the Court is a period of ____ days.

The time specified will expire on the __ day of ____, 2010/2011.

Confidentiality

The contents of the draft report or part of the draft report provided to you must not be disclosed, or the fact that you have received that draft report or part of a draft report must not be divulged in any way, except with the prior written consent of the commission or to the extent necessary for the purposes of an application to the Court.

Contravention of this statutory requirement of confidentiality is a criminal offence.

Section 37 of the Commissions of Investigation Act 2004 provides:

37.-(1) A person who receives a draft of a report or part of a draft report from a commission under section 34 shall not disclose its contents or divulge in any way that the draft or part of the draft has been sent to that person, except-

- (a) with the prior written consent of the commission, or
- (b) to the extent necessary for the purposes of an application to the Court.

(2) A person who contravenes subsection (1) is guilty of an offence.

Dated this ____ day of _____, 2010.

Signed: _____

Peter Nyberg.

SCHEDULE 1

Draft interim report or part of the draft report

SCHEDULE 2

Terms of reference

SCHEDULE 3

Commissions of Investigation Act 2004