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National Asset Management Agency Bill 2009 Second Stage Speech

Brian Lenihan

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Second Stage Speech

I move that the Bill be now read a second time.

A Cheann Comhairle, my speech is being circulated along with an information pack of supplementary documentation which I have also made available to the Deputies.

Introduction

In the history of this State, few subjects have been debated more intensively and more passionately than the Government's proposal to establish a National Asset Management Agency. Since I published the draft legislation on the 30th of July last, there has been a fast and furious debate on the airwaves, in the print media, on websites, at public gatherings, at a lengthy Committee meeting of these Houses two weeks ago, and, I am sure, in every household around the country.

This is as it should be. It is impossible to over-state the fundamental importance of the resolution of our banking crisis to our economic recovery. A clear understanding of why our banking system got into this crisis is also of the utmost importance. We must learn lessons from this crisis and we must and will take the necessary steps to ensure that we never make the same mistakes again.

I accept the good intentions of most contributors to the debate. Some of the commentary was ill-informed; some of it, from those who know better, was mischievous. But many constructive suggestions and amendments have been put forward and the Government has taken the best of them on board. I want to stress that I am open to further constructive amendments from the members of this House which will improve the legislation and protect the citizens of the State.

Much of the debate has centred on the risk involved in NAMA. Let us be clear: the resolution of the banks' difficulties involves risk; risk that the private sector will not take. That is why this government, like governments all over the world has had to step in. But there is another risk that is less prominent in the debate. That is the risk to the taxpayer of paralysis and delay.

If we do not act now to free our banks of their higher risk loans, we will not be in a position to benefit from the economic recovery that appears to be emerging in the United States and in Europe. Without a healthy and functioning banking system our businesses and service providers will not be able to grow and develop their products for our main markets. If we do not stand ready to take advantage of a global upturn, as an open free market economy dependent on foreign direct investment and international capital flows we will lose market share and we will lose jobs. That is the very real risk confronting our country.

So, the time for debate comes to an end. The Government has a duty to act. Our proposal to establish an Asset Management Agency has received the backing of the IMF and the ECB. It is also clear that the proposal has credibility in the financial markets. Since its announcement, the cost of borrowing by the State has fallen by 1.5% for 10 year money; tangible evidence that the Government's strategy is already working.

I also note that NAMA has received the endorsement of two distinguished predecessors of mine: Ray McSharry and Alan Dukes. Both men sat at the desk I currently occupy at another period of great peril for the economic life of this country. Given their record of service, I think their assessment is deserving of our respect.

A Cheann Comhairle, the citizens of this country are understandably angry about the state of the banks. They are bitterly disappointed by the failure of our regulatory system. They are appalled by the details of the reprehensible behaviour of some in the financial system and in the property sector in whom they placed their trust. And they are also angry with the Government. Many ask why we are putting money into the banks while they endure the brunt of the difficult budgetary decisions which we must take. There is now unfortunately a breakdown of trust in the entire system.

But the public also knows we need the banks. The public understands we cannot have economic recovery unless we fix our banking system. It is not just about bank guarantees, recapitalisation and asset management solutions for impaired assets. It is something much more fundamental and tangible. People need to be reassured that their deposits are safe. They need to believe that senior management and Directors in the banks are responsible, trustworthy and accountable for their actions. This will not happen overnight. It will require much hard work by all of us.

So we must all now overcome our understandable anger and get on with the business of reform. This Government is determined to refashion the financial and banking system, and to address and correct all regulatory and governance shortcomings. We will give a clear direction to the banks about what is expected of them. And let me be absolutely clear as I stand here today on behalf of the people of Ireland: the banks should be extremely grateful for the continued support and forbearance extended by the citizens. In return, the Government expects the banks to play more than their part in the economic recovery of the State by providing appropriately risk adjusted credit to businesses to protect and create jobs. Our citizens deserve nothing less.

The Bill before you today, has been drawn up on the basis of the expert advice and counsel available to the Government from the NTMA, the Financial Regulator, the Central Bank as well as our financial and legal advisors. Everything we do here must and will be done in accordance with EU State Aid rules. This Bill is the centre piece of the Government's plan to resolve the problems that have beset our financial and credit system. Before dealing with the details of how NAMA will work I want to set out the context in which the decision to establish the Agency has been taken.

International and Irish Context

Just under a year ago, the banks in this country were on the brink of financial collapse. The wellbeing of our nation and our people was under threat. The State Guarantee introduced overnight on the 29th of September 2008 pulled us back from the brink. As a result, our banks and financial institutions were once again able to raise from international markets the funds they needed to ensure that their customers whether big or small, young or old, could go about their daily business in the knowledge that their deposits were secure.

In the year and especially in the months before the Guarantee, our banks were being squeezed by the severe correction and withdrawal of funding that was taking place in the international financial markets. This correction followed an unsustainable period of cheap credit and inadequate regulation of the global banking system. The failure of the international investment bank Lehman Brothers and the decline in other global financial institutions further exacerbated the position. Smaller, more open economies, like ours were particularly badly affected.

Having moved away from more traditional forms of funding, with Balance Sheets expanding by over 100% in a few short years, Irish banks availed more than most of this cheap credit: borrowing short term to fund long term assets; using it to fund extensive property based lending. When this cheap credit dried up overnight, the Government like most Governments in the developed world was required to step in.

But as other countries followed our example in the use of guarantees, funding conditions again became extremely difficult for Irish banks and building societies. Large levels of speculative property lending left the banks exposed to a property market which had passed the peak of its cycle. The property industry shuddered to a halt. Sales of houses and other property stopped and repayments of interest and capital could not be met by borrowers. International providers of funding and capital recognised the risks, cut credit lines and in some cases stopped dealing with the financial institutions. In this weakened state, our banks started to hoard capital to protect themselves. Stress on their capital and funding positions understandably damaged the ability of banks to provide the vital flow of new and existing lending to the economy.

To address this problem, and to further stabilise the system, the Government moved to recapitalise AIB and Bank of Ireland. As details of shameful behaviour on the part of some senior executives in Anglo Irish Bank began to emerge, that Bank was taken into State ownership to prevent it from destabilising the rest of the banking system and the economy. As we know, these events are now the subject of a number of investigations which I hope will conclude sooner rather than later. Suffice it to say that the damage done by certain individuals to the reputation of this country will take some time and much hard work to repair.

Throughout the last year, our membership of the European Union and the eurozone in particular has played a vital role in our response to the current financial crisis. The European Central Bank stood behind this country during its time of greatest need and let nobody forget that when it comes to the Lisbon Referendum on the 2nd of October.

It is important to remember that the Government's support for our banks has not been unconditional. Financial benefits have accrued to the State from the fees related to the guarantee which will amount to €1 billion. The State also holds warrants for a 25% shareholding in AIB and Bank of Ireland which have gained significant value since the investment. Operational restrictions have been imposed on the banks. Executive pay has been limited. New rules have been imposed on the banks in their dealings with business customers and residential mortgage holders.

Nor has State support saved the banks from losses in this crisis. Shareholders, many of them ordinary citizens saving for their future, have suffered from enormous falls in share values and banks have taken large losses on their loan books. Subordinated Bondholders have also been hit, with a large amount of subordinated debt being bought back by the banks in recent months at a significant discount. The outcome of these transactions was a loss representing approximately €4 billion to these bondholders and a material contribution to the capital required for the institutions, that otherwise would probably have had to come from the State.

I want to reiterate that in all our actions over the past year, our sole concern has been the best interests of the wider economy. The simple fact is that credit remains the lifeblood of any economy. It allows business to source funding for productive developments and to foster creativity and innovation so that we can become a more competitive, export-orientated economy. It allows individuals to access mortgage funding and finance the purchase of consumer goods. The only way to restore the flow of credit is through a cleaned up banking system.

Asset Management Agency approach

That, a Cheann Comhairle, is precisely why the Government has decided to set up the National Asset Management Agency.

NAMA, will facilitate the speedy removal of higher risk property related assets which are clogging up the banks' balance sheets and greatly hampering their ability to lend to credit-worthy individuals and households and thereby support economic activity.

This general approach to dealing with distressed assets has been supported and recommended by banking experts across the globe. The model has been successfully implemented in a number of countries in the past where similar issues with problem loans have arisen. Countries such as Germany and the UK are also introducing asset relief schemes. Indeed, the European Commission has issued State aid guidance in this area specifically to assist Member States that have chosen to take steps to establish asset relief schemes. International agencies such as the IMF and the ECB have commented favourably on the approach. In other words, this is a proven policy response that has been successful elsewhere and will be successful in Ireland.

As we rebuild our banking infrastructure we must reform our oversight mechanisms so that our regulatory and supervisory system ensures we have a banking system that is fit for purpose; a system that supports economic recovery; and a system that will prevent the economy from being undermined by rogue and undisciplined actions within the sector.

So how will NAMA work? Turning to how NAMA will operate, individual institutions must apply and be accepted as participating institutions. The NAMA Bill includes fair and objective criteria for the selection of the institutions that would participate in NAMA consistent with the EU State aid guidelines. As I made clear at the discussion with the Joint Oireachtas Finance Committee on the draft NAMA Bill on 31 August under the legislation any credit institution in Ireland can apply for participation in NAMA and each application will be assessed strictly in an objective and non-discriminatory manner in accordance with the statutory criteria included in the Bill and EU State aid requirements.

With this in mind, I will be proposing a Committee Stage amendment to Section 60 of the Bill to increase from 30 to 60 days the period of time that credit institutions have to apply for designation as participating institutions in NAMA to facilitate the application process for credit institutions.

The figures I am presenting today relate to five institutions:

- Allied Irish Bank,
- Anglo Irish Bank,
- Bank of Ireland,
- The Educational Building Society and
- Irish Nationwide Building Society.

These are the institutions in which we have had the opportunity over the last year to carry out the necessary due diligence, analysis and stress testing.

The Agency will buy the land and development property loans and certain associated loans from the banks at prices well under the current book value. It will then manage these loans out over time to achieve the best possible financial return for the taxpayer. NAMA will start with the largest systemic exposures across the institutions and it is expected that by the middle of next year most of the loans will be transferred. NAMA will leave behind smaller, cleaner and better funded banks that can focus their resources on their core function of lending to the productive economy.

It is likely that some institutions will require additional capital in order to absorb the losses arising from the transfer of their impaired assets to

NAMA and in order to maintain appropriate levels of capital. I want to make it clear that the Government would expect such an institution to explore all available options for raising such capital. It is the Government preference that private market solutions are found and implemented. The banks and building societies will be expected to increase the equity component of their capital base as the NAMA asset transfers are implemented.

To the extent that sufficient capital cannot be raised independently or generated internally, the Government remains committed to providing such banks and building societies with an appropriate level of capital to continue to meet their requirements. This will be done in a manner consistent with EU State aid rules and the credit needs of the Irish economy. I should also state that any recapitalisation of a credit institution in such circumstances must be followed by restructuring in a manner which complies with EU State aid requirements.

Projected Asset Details

It is expected that NAMA will purchase loans with a book value of approximately €77 billion.

The approximate breakdown is as follows:

Allied Irish Bank	€24 billion
Anglo Irish Bank	€28 billion
Bank of Ireland	€16 billion
EBS	€1 billion
INBS	€8 billion

Further details of the loan books of the institutions are contained in the supplementary documentation.

It is projected that 36% of the assets will be land, 28% development property and 36% in associated commercial loans. The estimate is that 40% of these loans are cash-flow producing. The cash flow produced will be sufficient to cover interest payments on the NAMA bonds and operating costs. The geographical breakdown of the assets is about two thirds in Ireland, one fifth in Great Britain, 6% in Northern Ireland and most of the remainder in the USA and Europe.[1]

Valuation

The price to be paid for these assets will be a lot less than their €77 billion book value. The valuation formula has regard to EU guidance taking into account both current market conditions and long term economic returns. This strikes a balance between reflecting the long term potential of these assets while minimising any potential risk that NAMA will make a loss.

The legislation sets out a comprehensive methodology on how assets will be valued and I am publishing today draft valuation regulations which provide further detail on the valuation process. This valuation framework must accord with EU State aid guidance and is subject to EU approval. Application of the valuation methodology is a complicated and extensive process and it must be remembered that each loan must be valued individually in accordance with the methodology. In that context, any

[1] subject to rounding: Ireland: 67%, Northern Ireland: 6%, rest of UK: 21%, USA: 3%, Other: 4%;

estimate of the price to be paid for the assets is provisional in nature. From our estimates, it is expected that NAMA would pay approximately €54 billion in relation to the €77 billion of loans that I mentioned earlier. This is an estimated aggregate discount of 30%. Loan quality, geographic distribution and type of loan will all vary from institution to institution. These figures cannot be applied to extrapolate to individual portfolios or loans. It is essential to the NAMA process that final decisions on these kinds of numbers will be made only after an exhaustive bottom-up valuation process. The valuation process will be designed to meet the standard that will be expected by the EU Commission.

The estimated market value is €47 billion. Deputies should consult the accompanying documentation to see how this figure was calculated.

This is an estimate based on certain assumptions and information about the property market including a fall in average property values in the State of about 50% since the peak in 2007. This average masks a very large degree of variation in property value movements depending on factors such as location, the nature of the property and so forth.

The fall in property values has pushed up property yields. Yields are now above their long term average, and this suggests that values are bottoming out. In fact, the gap between yields and interest rates is much higher than at any time since the mid 1990s. Further details are available in the supplementary documentation.

Using the adjustment factors set out in the legislation, the current estimate of the allowance for long term economic value is €7 billion. I know there are reasons to argue over whether there should be any allowance made for long term economic value. But we are here to help the economy and people by putting our financial system back on track. We cannot do that by forcing banks to sell assets at below what would be rational prices for them.

As US Federal Reserve Chairman Ben Bernanke has said ‘‘Banks will have a basis for valuing those assets and will not have to use fire sale prices. Their capital will not be unreasonably marked down.” We also reject the idea of forcing distressed asset prices on the banks and we must ourselves find the right balance. We will not pay too much for these assets, but paying too little has its own consequences for our economy and this is not the time to expand our risks.

But this limited allowance for long term economic value will be de-risked. The Bill provides for part of the consideration for the assets transferred to be in the form of subordinated bonds, which put the banks at risk if NAMA were to lose money, which is not our expectation – without giving them an upside in relation to its gains.

In addition, we intend to introduce a levy if on the winding up of NAMA there were to be a deficit.

Finally, I should note that the State owns 100% of Anglo Irish and currently has substantial economic interest in the two largest banks. Those who argue that I am transferring value to shareholders must agree that this is very much reduced by the fact that the State is in itself a shareholder for a substantial part of the system.

The proportion of the total consideration which will be in the form of subordinated debt and therefore at risk to the bank and linked to the performance of NAMA will be around 5%.

Let me repeat this point. The protections for the taxpayer of the risk sharing mechanisms, and if necessary a levy, will ensure that any unjust enrichment of private shareholders by paying an allowance over current market value can be recouped. But if NAMA makes money this will accrue to the taxpayer.

Taking the subordinated debt into account, it is estimated that NAMA will have to achieve less than a 10% uplift over the current market values on its assets over ten years to break even. Let's put that figure in perspective. Assuming that NAMA were to dispose of the majority of its assets in the second half of the decade, this uplift in property values would be achieved even if values kept pace with general consumer price inflation. In that case, real (that is, inflation adjusted) property prices in ten years' time would still be 45 per cent below their values of late 2006. To be clear there is no assumption in our work that peak property prices must and will be repeated. The Governor of the Central Bank, John Hurley, and the incoming Governor, Professor Patrick Honohan, have stated to me and I quote:

"Having regard to the uncertainty in property price movements, the proposed add-on of 15-18 per cent to the estimated current market price does not seem out of proportion with the range of potential upward price movements, especially when a risk sharing element is included."

Developers and the Market for Development Land

The amount a borrower owes will not change because of the transfer of a loan to NAMA. The Agency will have a statutory duty to maximise the tax payers' return and will therefore be expected to use all of its means to this end. The Bill also provides the Agency with a wide range of powers it needs to pursue borrowers and enforce security in some cases this will mean that borrowers' personal assets will have to be assumed by NAMA.

I am also conscious of the need to avoid a repeat of the current position in the market for development land. A requirement has been included in the Bill obliging NAMA to have regard for the need to avoid undue concentrations or distortions in the market for development land. I also intend to issue guidelines governing the Agency's interaction with borrowers in the completion of properties acquired by NAMA.

Effects on individual financial institutions

The banking system has let us down. However, it can revive and serve our economy in a proper manner. But the existing structures cannot remain the same. Already a number of banks are developing restructuring plans to tight deadlines to meet EU requirements arising from recapitalisation options. Any institution participating in NAMA will be required to restructure its operations and I will be insisting that this is a real process leading to a reformed and re-invigorated banking system. It is too early to outline a definitive shape for the new system and there has to be scope for subsidiaries of external banks to play their full part. This will be a focus of my work over the coming weeks.

Bank Guarantee

I referred earlier to the importance of the Bank Guarantee scheme in stabilising the banking system following its introduction last year. In June last, I introduced changes to the scheme as part of the Financial Measures (Miscellaneous Provisions) Act 2009 which allowed for the extension to the Government guarantee contained in the Credit Institutions (Financial Support) Act 2008 beyond the current expiry date of 29 September 2010. As I announced in the Supplementary Budget on 7 April last, the guarantee will be amended to facilitate access for Irish financial institutions to longer term debt. I propose to adjust the current guarantee but retain all of the most important features. The details of this will be published on my Department's website this afternoon. The new scheme will be somewhat more targeted. It will allow for greater longer term debt issuance under the guarantee, moving it more towards the European model. The revised guarantee scheme will represent the necessary first step in the exit strategy for the State from the blanket guarantee offered in September 2008. However, it is clear that the stability provided by the guarantee remains important and for that reason it will remain extensive and retain the blanket guarantee for deposits.

A key feature of the modified guarantee scheme is that it allows the covered institutions to access un-guaranteed funding. Over the last month certain Irish institutions have started taking the first steps towards issuing un-guaranteed term debt and we welcome this positive trend.

EU State aid approval for the scheme is at an advanced stage. A formal market notice will be issued later this month once approval of the European Commission has been secured and I anticipate that I will bring the necessary Statutory Instrument to commence the scheme before the House in early October. The liquidity advantages provided by NAMA, together with the continuing support of the guarantee scheme, will underpin the stability of funding for the Irish financial system.

The House will be aware that market participants pay keen attention to our debates on financial matters. For the avoidance of doubt in the market, all liabilities covered under the existing guarantee on liabilities, known as the CIFS scheme, will remain fully guaranteed until 29 September 2010.

Central Bank Reforms

The Central Bank of Ireland is taking its position at the centre of financial supervision and financial stability oversight. Professor Patrick Honohan will succeed Mr. John Hurley as Governor later this month. A new Head of Financial Supervision will be recruited shortly. New resources and additional expert staff will widen skill sets and expand and enhance the capacity for the reformed institution. I expect the draft legislation providing for the reform of the regulatory system to be published before the end of the year

As part of the reform package for financial regulation and longer term planning, I am examining options for the introduction of a legislative regime to deal in a systematic way with distressed financial institutions. I want to ensure that the State has in place a range of tools to protect deposit holders and ensure that we can deal effectively with problem institutions and at the same time maintain the confidence of the international markets. My officials and the relevant authorities are examining the scope of such a regime. I hope to be in a position to bring forward proposals in this area in the New Year.

Promotion of Lending to the Economy

Everybody in this House is aware of the effect of the crisis conditions of the last year is having on the availability of credit to businesses and households. The flow of credit is essential to the proper functioning of the economy and all of the Government's actions to stabilise the banks have been undertaken in order to ensure that the financial system continues to fulfil its essential functions in providing credit for businesses and individuals. The establishment of NAMA and the removal of identified risky assets from the balance sheets of participating institutions should in itself improve credit supply. The basic business model of a bank - and what generates profits - is on-lending at a margin appropriate for the risk involved. NAMA will allow banks to focus on this and addresses the two key existing limitations to new lending:

- It will strengthen and improve the funding position of the banks meaning they have available funding to on-lend. The simple fact is that every Euro lent by a bank to a customer must be drawn from deposits or borrowed by the bank from somewhere else. NAMA will pay for the loans by giving the banks Government bonds that can be swapped for cash in international markets and at the European Central Bank
- The removal of higher risk assets will allow banks to focus their human and capital resources on their core business – rather than trying to work out problem loans. Every new loan requires new capital and banks in their current position need to maintain existing capital buffers to absorb current and future losses.

Specific credit supply measures were incorporated into the Government's recapitalisation packages for AIB and Bank of Ireland. Credit for SMEs has been a particular focus of concern. As part of the recapitalisation package each bank committed to increasing capacity for SME lending by 10%, establishing a €100m fund for clean energy and environment-friendly investment and a further €15m for seed and venture capital. The banks report on all of these commitments quarterly and their reports are monitored by the Financial Regulator. The reports clearly show that new business lending is taking place month by month, although at a lower rate than last year, and that substantial numbers of new business accounts are being opened each month.

The Department of Enterprise, Trade and Employment have established a Credit Clearing Group, involving business groups, banks, State agencies and Departments, which is examining cases of credit refusal referred to it and an e mail post-box has been set up to facilitate referrals. In addition, of course, that Department is operating the Stabilisation Fund and the Temporary Employment Subsidy Scheme to help viable businesses get through the current difficulties.

To summarise, the Government has made SME lending a major priority. Various actions have been taken to support viable business, to track the real situation, and to facilitate access to credit on a proper commercial basis. In terms of specific credit supply measures attaching to NAMA, the Government continues to examine options in this regard.

Alternative approaches

Some have argued for alternative approaches. As I discussed earlier, the risks to the taxpayer of overpaying for assets by paying an allowance for long term economic value can be mitigated by risk sharing mechanisms and the levy. I wonder if those who argue that NAMA should ignore the fact that the market is currently distressed and pay the institutions current market value realise the cost implications of what they are proposing. The additional capital required by the institutions compared with what might be required under the NAMA approach would be in the region of €4 billion to €7 billion. This capital would have to be provided -- and because the banks would be so weakened, the only possible provider would be the State. Some of this, clearly, would be offset by the effect of our ownership in the institutions concerned, but this money would have to be provided, with any payback coming later.

More expensive still is the Labour Party's reported proposal for blanket nationalisation and a straightforward 50 per cent discount on the loans. This would immediately require the State to borrow an additional €10 billion to €14 billion to recapitalise the banks. Even under the benign assumption that additional borrowing of this scale would not affect the interest rates on Government bonds, the interest costs of this additional capital would be between €600 million and €700 million each year. That is dead money that should be used to fund vital public services. In the more likely event that the extra borrowing put upward pressure on the cost of borrowing money on international markets, the overall costs to the State of Labour's proposal would be even larger.

Of equal concern is the damage that would be done to any possibility of recovery of the financial system. This new capital injection would lead to effectively full nationalisation of the banking system. Full nationalisation is, of course, Labour Party policy but it carries with it a very real possibility that the people who provide our banks with the funds they need to continue their operations would reduce their level of funding. The simple fact is that it is easier for a commercially oriented banking system to attract the funding it needs to provide credit to the economy. A forced nationalisation of the system would involve significant risks of reduced funding opportunities for the banks. Against a backdrop of the global funding crisis, these are risks we cannot afford to take. I would draw your attention to the words of President Obama last April, when explaining his opposition to blanket nationalisation. He said, and I quote: "Pre-emptive government takeovers are likely to end up costing taxpayers even more in the end and … are more likely to undermine than create confidence."

So that is what President Obama thinks of the policy of blanket nationalisation. That view is shared by many countries around the world and that is strongly the view of this Government.

Additional Economic and Social benefits of NAMA

NAMA will ensure that credit flows again to viable businesses and households by cleaning the balance sheets of Irish banks. This is essential for economic recovery and the generation of employment. NAMA will ensure that we avoid the Japanese outcome of 'Zombie banks' that are just ticking over and not making a vibrant contribution to economic growth. NAMA will force the banks to take the losses on their riskiest loans, earlier than may otherwise be the case and leave the banks 'cleaned up' and better able to get on with their future business. This asset management approach protects taxpayers. The evidence from property busts in other countries shows that the longer bankers and borrowers are allowed to deny the reality of the losses they face, the greater the ultimate cost to the taxpayer and the economy more generally.

Cleaning banks’ balance sheets of their riskiest class of assets allows banks’ management to refocus the banks’ operations towards lending to small and medium-sized firms and away from property speculation.

The announcement of the decision to set up NAMA has already triggered some improvement in confidence in our economy which has lead to a reduction in the cost of borrowing for the State.

Within the legal boundaries that NAMA must operate, and notwithstanding its commercial remit, NAMA could have a role in creating balanced and desirable places to live with obvious benefits for sustainable social values. NAMA could seek to facilitate the Department of Education and the Department of Environment, Heritage and Local Government where these bodies have requirements -- for example, such as schools, parks, and so on -- which facilitate the creation of desirable developments that encourage vibrant sustainable communities. Such bodies could be given first option on disposals for a limited period, and though they would have to pay the reasonable market price required they would at least be given the first mover advantage. These bodies have sometimes been held to ransom and have had to pay inflated prices for projects such as school extensions and playgrounds.

In disposing of properties, NAMA could play a role in the provision of social and affordable housing. For example, proposals to purchase or take long leases of suitable blocks of unsold apartments or units for social and affordable housing needs can be implemented, where this can be shown to create a commercial proposition for NAMA

Key Parts of the Legislation

I would now like to deal with the main provisions of the Bill, the Bill contains over 200 sections and I propose to outline the principal aspects of each Part:

Part 1 sets out in detail the purposes of the Act and includes some general provisions such as the definitions used in the Act. It also includes a provision dealing with the sanctioning of certain offences committed under the Act.

Part 2 deals with the purposes, functions and powers of NAMA. NAMA will have all powers to enable it to achieve its purposes and to carry out its functions. In particular, NAMA will have all necessary commercial powers of a financial asset management company enabling it to take full and determined action in relation to bank assets acquired. This Part also provides for the establishment of the agency itself, the appointment of a Board and CEO and makes related provisions.

Part 3 sets out how NAMA will be financed, provides for the issuance of securities, including subordinated securities, for the purchase of bank assets. This Part also sets limits on NAMA's borrowing powers and includes detailed measures in relation to NAMA's accountability. In particular, NAMA must produce certain reports for me as Minister and these will be laid before the Oireachtas. NAMA will be audited by the

Comptroller & Auditor General and the Bill provides for the appearance of the Chair and CEO of NAMA before Oireachtas Committees.

Part 4 provides for the designation of participating institutions eligible to have bank assets purchased by NAMA. The decision to designate will be made by me, after consultation with the Governor of the Central Bank and the Financial Regulator, having regard to a number of factors including the systemic importance of the institution to the financial system of this State and whether the designation of the institution is necessary to achieve the purposes of the Act. This Part also provides for the designation of bank assets eligible for acquisition. After consulting NAMA, the Governor of the Central Bank and the Financial Regulator, these assets will be set out in a Ministerial Order.

Part 5 sets out the methodology for the valuation of eligible assets. I have dealt in detail with the valuation process already and indicated that draft regulations to be made under section 77 will also be published today.

Part 6 provides generally for the mechanics of the acquisition by NAMA of bank assets, and makes special provision for foreign bank assets. In particular, this Part requires participating institutions to provide NAMA with certain information regarding its bank assets. This Part also provides that bank assets to be acquired by NAMA will be listed on acquisition schedules drawn up by NAMA and served on the participating institution and makes provision for the terms and conditions of acquisition. This Part includes provisions to ensure that, save in respect of excluded obligations and liabilities, NAMA steps into the shoes of the participating institutions in connection with the banks assets acquired.

This Part also makes provision to govern dealings in relation to bank assets acquired or proposed to be acquired.

Part 7 sets out two appeal mechanisms for participating institutions. The first is an appeal against the inclusion of a bank asset in an acquisition schedule on the basis that the bank asset is not an eligible bank asset as defined under the Act. The second appeal relates to either the valuation of individual bank assets or the valuation of the total portfolio acquisition value (being the value paid by NAMA for all bank assets it acquires from a participating institution and its subsidiaries).

Part 8 governs the relationship between NAMA and participating institutions. It requires participating institutions to deal with NAMA in good faith. It also provides for the servicing of assets by participating institutions on NAMA's behalf, and includes provision for the making of directions in respect of this. This Part also makes provision enabling NAMA to agree an incentivisation arrangement with the participating institutions in relation to the servicing of assets.

Part 9 gives certain powers to NAMA to allow it to effectively deal with bank assets transferred to it. NAMA will be provided with powers necessary to enforce security relating to bank assets, including the appointment of statutory receivers and NAMA can, upon receipt of a Court order, be vested with ownership of land underlying the bank asset. To deal with the danger that persons might seek to impede NAMA's operations in particular ways, this Part also provides NAMA with very limited powers to compulsorily obtain land or interests in land.

Part 10 deals with legal proceedings. It includes provisions that will protect the operation of NAMA in particular by enabling it to elect to be substituted in proceedings and by ensuring that, where appropriate, the only remedies available are those that will not affect the bank asset.

Part 11 governs the disclosure of confidential information by participating institutions to NAMA and by NAMA to certain other bodies. This Part also generally prohibits the disclosure or use of confidential information for personal gain by NAMA staff, Board members or NAMA service providers. The Part also includes certain information sharing provisions including between NAMA and the Revenue Commissioners and between me, as Minister, the Governor of the Central Bank and the Financial Regulator.

Part 12 deals with the conduct of participating institutions and allows the Financial Regulator, with my approval as Minister, to direct participating institutions to provide certain reports. This Part also includes provision for the drafting by participating institutions of restructuring or business plans.

Part 13 covers various miscellaneous matters. These include providing that NAMA can avoid certain transactions designed to defeat, delay or hinder the acquisition by NAMA of an eligible bank asset, or to impair the value of an eligible asset. The Part also includes certain taxation related provisions and makes it an offence to lobby NAMA.

Part 14 relates to the review of NAMA's operation. I, as Minister, may at any time require NAMA to report on the progress it has made in discharging its functions under the Act and I will assess at 31 December

2012 and thereafter every 5 years the extent to which NAMA has achieved its objectives. The Part also provides that the Comptroller and Auditor General will report at 31 December 2010 and thereafter every three years on the progress being made by NAMA in reaching its objectives.

Part 15 deals with technical amendments to certain other Acts which are generally set out in the Schedules.

The Schedules deal with a number of technical amendments to other legislation. One of the key amendments in the Schedules is in respect of the Taxes Acts and has the effect of restricting the amount of a participating institution's taxable trading income which can be reduced by losses carried forward, including losses arising from the NAMA process.

I also propose to bring forward a number of Committee Stage Amendments. The main proposed amendment is that windfall gains on rezoned land will be subject to Capital Gains Tax at the rate of 80%.

Conclusion

Since this crisis began a year ago, the sole objective of the Government's actions has been the common good. The common good of this country requires, first and foremost, a return to economic growth. Economic recovery is dependent on three key factors. The first is getting the public finances back in order: that work is well underway and will be debated in this House when I bring forward the Budget in December.

The second is restoring our competitiveness by reducing our cost base. The final key ingredient is a healthy banking system that will serve the needs of the wider economy. Without a properly functioning banking system, we will not have economic recovery. It is as simple as that. Having stabilised the financial institutions over the last year, we must now move to cleanse them of their infection and return them to full health. The necessary controls have been included in our plan to ensure that the interests of taxpayers have and will be protected throughout the process of repair. And the reforms I will introduce to our regulatory and supervisory structures will ensure that there will be fair, but forceful, oversight of the banking sector.

I want to thank those in various government departments and agencies as well as my financial and legal advisors who have worked incredibly hard over the last year in highly pressured conditions to deal with this crisis. The suggestion that in setting up NAMA and in drawing up this legislation, they were somehow colluding in some conspiracy to protect narrow sectional interests is unworthy of any member of this House. Their work has been entirely in the national interest and history will show that to be the case.

Let nobody underestimate the scale of the task before us. Our banking system during the boom years was driven at reckless speeds, and when it hit the wall last September the damage was huge. Our banking system needed radical surgery. We never once shirked our responsibilities or shied away from taking bold actions when we judged that such actions were needed. Others had the luxury of indulging in abstractions and recrimination. The Government had to act and we did. Our critics say we should have done things differently. They are entitled to their views. But nobody can deny that this Government took brave and decisive steps when they were needed. We took these actions because we care about the economy and the welfare of the citizens of this country.

As President Obama said in a speech about the banking crisis in the United States earlier this year: "…whether we like it or not, history has shown repeatedly that when nations do not take early and aggressive action to get credit flowing again, they have crises that last years and years instead of months and months -- years of low growth, years of low job creation, years of low investment, all of which cost these nations far more than a course of bold, upfront action."

NAMA is our "bold, upfront action." A Cheann Comhairle, I commend this Bill to the House.