

The logo for Ryan & Crowley Chartered Accountants, featuring the company name in a blue serif font with a large ampersand, set against a light blue rectangular background.

CHARTERED ACCOUNTANTS

Abercorn House
57 Charleston Road
Ranelagh Dublin 6

TEL: +353 1 497 5859
FAX: +353 1 497 7782
email info@ryanandcrowley.com

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Recent numbers from the Central Statistics Office (CSO) show that Irish exporters to the UK have been having an extremely tough time of it.

The most recent data available shows that exports to our closest and most important trading partner were about 9% lower in the first four months of this year compared to the same period in 2008.

Total goods exports were actually up some 3% over the same period indicating that from an Irish perspective the UK market has been a particularly weak area of demand in a generally very weak international picture.

The weakness of our recent export performance to the UK reflects the interaction of two powerfully negative forces. First, the UK economy has been going through a very severe economic downturn. In fact, the total 5.7% drop in UK Gross Domestic Product (GDP) over the course of the recent recession is without precedent in some 55 years of quarterly data.

Second, sterling's sharp fall versus the euro on the currency markets has been making it even more difficult for Irish firms serving the UK market. Over most of the five years to the end of 2007, the Euro/ Stg. rate traded in a narrow range of about 66-72p, averaging 67.5p in that period. But sterling has since weakened sharply, moving from below 68p in August 2007, to a record low of 98p to the euro late last year, with a particularly brutal move which saw a shift from 77p to 98p between late October and late December. Thus a given level of sterling revenues fell by a staggering 27% in euro terms in this two month period alone - an extremely painful scenario by any standards especially considering that many Irish exporting firms operate on relatively low profit margins.

economic OUTLOOK

A photograph of two white dice with black pips, one in the foreground and one slightly behind it, set against a light green background.

Recent developments offer encouragement on both fronts, however

economic OUTLOOK

Firstly, there are now widespread indications of some improvement in global economic conditions. Importantly from an Irish perspective the UK economy is participating in this trend and is beginning to show signs of life. Closely-followed surveys of activity in both the manufacturing and services arenas have rebounded strongly from their record lows seen around the turn of the year. These are now indicating that the UK economy will return to growth over the balance of this year, a scenario that owes much to the very aggressive action of UK policy-makers in countering the forces of recession. Special mention for the Bank of England is warranted here as it has slashed rates to effectively zero and is pumping £175bn of newly-created central bank money into the system in order to revive spending and demand.

Recovery is not likely to be particularly strong as the trauma of the financial crisis will linger as a headwind for both banks and households for some time to come. Nonetheless, expansion in the UK economy, even if relatively modest, is certainly a major turnaround compared with the sharp weakness which had previously dominated.

Secondly, sterling has shown a lot more resilience on the currency markets this year. An impressive run of better than expected UK economic numbers has helped the UK unit to a significant rally. From the record low of 98p late last year, it has recovered to about 88p at time of writing, a move of some 12% - and in the right direction too from the perspective of an Irish exporter.

Some measures of sterling's long-run equilibrium value against the euro centre on a 70-75p range. While I would be very surprised to see such levels revisited anytime soon a deviation from this notional fair value of some 18% continues to look excessive and I think a target of 80p by year end continues to look reasonable. The respective economic cycles will continue to play a role in encouraging this expected adjustment as it looks as if the UK recovery is running ahead of developments in the euro zone. One implication of this is that the Bank of England will likely be moving to raise rates before the ECB albeit that it is likely to be into next year before either central bank gets to the point of pulling the trigger.

Overall it looks as if the international environment including the key UK market is emerging from the depths of recession. This is certainly good news for Irish exporters, especially if sterling can also continue its gradual recovery on the currency markets.

Ulster Bank Capital Markets



PAY AND FILE SUMMARY

The following is a summary of upcoming pay and file dates:

INCOME TAX

Filing date of 2008 return of income	31st October 2009
Pay preliminary income tax for 2009	31st October 2009
Online filing date of 2008 return of income	16th November 2009
Online payment of preliminary income tax for 2009	16th November 2009

CAPITAL GAINS TAX

Payment of Capital Gains Tax for the disposal of assets made between 01 January 2009 to 30 November 2009	15 December 2009
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Payment of Capital Gains Tax for the disposal of assets made during the month ended 31 December 2009	31 January 2010
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REVENUE JOB ASSIST SCHEME

Revenue Job Assist Scheme has been in place since 1998, however it remained anonymous throughout the boom years when unemployment was at its lowest. The scheme provides employers with a double wage and employers PRSI deduction in calculating total income for tax purposes for three years where they employ an individual who has been unemployed for the previous 12 months.

In order to be classed as a qualifying employer for the scheme, the following requirements must be met:

- No redundancies must have been implemented by the employer within the previous six months.
- The employer cannot have lost an unfair dismissals claim to the previous holder of the employment.
- The employer cannot be in receipt of other employment subsidies
- The employee cannot be a spouse or child of the employer.
- The role must be capable of lasting 12 months and must involve at least 30 hours per week.
- The remuneration cannot be more than 75% commission based.

Employees must meet the following criteria to participate in the scheme:

- The individual must have been unemployed for the previous 12 months and in receipt of unemployment payments from the Department of Social and Family Affairs e.g. Jobseekers Allowance, Illness Benefit etc.
- The individual cannot have been a 'qualifying employee' under the rules of this particular scheme in the past.

A qualifying employee will receive extra personal tax credits on a reducing scale for the first three years. They may also receive extra child tax credits, retain their medical card and potentially retain other benefits such as fuel allowance. There is no cap on the number of qualifying employees that may be employed. Given the Central Bank's recent prediction of increased unemployment throughout 2010 it is likely that the Revenue Job Assist Scheme will prove to be a valuable incentive to businesses in the coming years.

LOCAL GOVERNMENT (CHARGES) BILL 2009

The recently enacted Local Government (Charges) Bill 2009 details how a charge of tax on non-principal private dwellings will be levied from 31 July 2009. The charge will be determined by way of ownership of a property on one day in the year. For 2009 the 'liability date' is 31 July 2009 while for 2010 the 'liability date' has been set at 31 March 2010. The tax which is a flat fee of €200 is payable within two months of the liability date, i.e. 30 September 2009 and 31 May 2010. This means that property holders will be faced with a charge of €400 for each property held outside their own home within twelve months. There are several exemptions to the charge namely:

- Single properties with multiple tenants will be liable to a single charge, provided that each tenant has their own bedroom.
- The charge will not apply to mobile homes.
- The charge will not apply to persons who must reside elsewhere by reason of infirmity or for mental health reasons.
- The charge will not apply to residences occupied by a family member for which no rent is being charged where the property is less than 2 kilometres from the owners own residence.

Payments made after 31 October 2009 will face a late fee of €20 per month. Further information can be found on www.nppr.ie.

VAT – AN UPSIDE?

Cash flow management is crucial for all businesses in the current economic downturn. As turnovers are falling, many businesses may be able to avail of Revenue filing concessions which allow you to push out your VAT payment dates. Four-monthly returns are available for traders whose total VAT payments are between €3001 – €14000 per annum. The filing date is the 19th of the month following the last four monthly period. Bi-annual returns are available to traders who have total VAT payments of less than €3000 per annum. The filing date is 19th of the month following the last 6 monthly period. Annual returns are available where a business signs up to a monthly direct debit facility with Revenue. The direct debit amount should be reassessed constantly throughout the year and should be at least 90% of the final liability in order to avoid interest being applied. Where any VAT returns are filed and paid online using ROS the deadline is extended to 23rd of the relevant month.

R&D TAX CREDIT

In a highly competitive environment the Irish Government recognises the important role research and development (R&D) plays in continuously moving the industrial based economy to a more modern knowledge-intensive economy. The State is specifically seeking to encourage activities that will contribute to an enhancement of the calibre of research and development in Ireland and create high-quality jobs and opportunities for our workforce.

In the 2004 Finance Act, the R&D Tax Credit scheme was introduced as an incentive to increase R&D activity by indigenous companies and also to make Ireland an attractive destination for foreign companies to set up their R&D operations.

WHAT IS THE R&D TAX CREDIT?

The scheme permits trading companies to claim a 25% tax credit in 2009 (20% in 2008) on incremental expenditure on certain qualifying R&D activities undertaken within the European Economic Area (EEA). The tax credit is available for offset against current year corporation tax liability and any unused credit may be carried forward indefinitely to future periods.

A recent change to the Finance (No. 2) Act 2008 offers a new incentive for non-tax paying companies with accounting periods starting after 1 January 2009. Companies with an insufficient or non-existent corporation tax liability now have the option to claim the R&D Tax Credit as a cash payment from the Revenue Commissioners. This is undoubtedly a great opportunity, especially for start-up companies that are not yet in profit.

HOW CAN COMPANIES CLAIM?

1 – IDENTIFY THE R&D ACTIVITY:

Experience has shown that the qualification and classification of activities or projects is the area in which people need the most help. While Revenue provides a very comprehensive set of guidelines many find it difficult to relate their own activity to the criteria specified. Failing to find an immediate link to the criteria by no means rules out the possibility of a company carrying out R&D activity.

R&D is not just about inventing new products or carrying out ground-breaking research. It can also involve the development or improvement of industrial processes and materials necessary for companies to remain competitive in their field.

To qualify for the tax credit, a company must first assess the activities it carries out. A good place to start is to try and identify the scientific or technological advancement your company is (or has been) trying to achieve compared to what is currently available. This provides a base for further investigation into identifying the technological or scientific uncertainties sought to be resolved – the backbone of every claim.

2 – IDENTIFY THE R&D COSTS:

With a strong project identified, there are a multitude of costs that can be included in your claim. Examples of eligible expenditure are – staffing costs, overheads, materials, R&D staff training, building used or built for R&D activity, patent license costs, subcontracted work and software. These are only a few examples and there is always a possibility to optimise the claim by including more eligible costs depending on the circumstances.

WHAT INFORMATION SHOULD THE COMPANY KEEP?

Proper records must be maintained to support both the financial and technical aspects of the claim. These should provide sufficient evidence to demonstrate R&D activity has been carried out in a systematic and investigative way and from a financial perspective every figure needs justification.

A COMPLEX LEGISLATIVE FRAMEWORK

A full understanding of the Revenue guidelines is essential in making a successful and optimised claim. As the claim can only be submitted once, omitting a single detail may result in a final refusal from Revenue. It is recommended that comprehensive advice be sought prior to the preparation of any R&D Tax claim.

SUMMARY

In the challenging times that businesses now find themselves, this incentive offers companies the opportunity to maximise the benefit of this R&D initiative and in turn the possibility to improve their cash flow. It is now the ideal time to look at optimising your 2008/09 claim. Companies are encouraged to submit their R&D Tax Credit claim when filing their corporation tax (CT) return. This allows for a more timely receipt of the R&D Tax Credit benefit. For example, those with a financial year end in December 2008 and who submit their CT return this September will receive immediate benefit. Filing after this will mean waiting for a Revenue refund.

Leyton & Associates

€3 M. EXTRA FUNDING FOR MICRO FIRMS

"Micro enterprises" in Ireland could be given access to more than €3 million in additional funding under the Competitiveness and Innovation Framework Programme. This follows the signing of a guarantee agreement between the European Investment Fund, Europe's main finance support organisation for small and medium enterprises and First-Step Microfinance, a private not-for-profit institution that provides interest-bearing loans of up to €25,000 over a three year period. More information on these funds can be had from www.first-step.ie

NEW RULES TO INCREASE SHAREHOLDERS RIGHTS

The shareholders' Rights (Directive 2007 / 36/ EC) Regulations 2009 introduces new rights for investors and aims to provide for more timely access to company information.

The new rules promote the use of simplified electronic or internet based means for shareholders to vote at general meetings of publicly listed companies. The Tánaiste said they would assist in increasing shareholders' "understanding, activism and engagement" with the companies they own.

Shareholders representing at least 5% of the voting shares will be able to call a general meeting. Previously a holding of 10% was required. Shareholders with at least 3% voting rights will have the right to put items on the agenda and table draft resolutions. There will be a minimum notice of 21 days for most general meetings, which can be reduced to 14 days for extraordinary general meetings.

COMPANY PRODUCTIVITY GUIDE LAUNCHED

Forfás has launched a guide that the agency says provides companies with proven tactics for boosting productivity. Boost Your Company's Productivity: Simple Steps was developed by Forfás in conjunction with businesses, representative bodies and Enterprise Ireland, IDA Ireland and the National Centre for Partnership & Performance.



The guide outlines that key areas for companies to look at when striving to grow productivity are: flexible work practices; innovation and creativity in responding to customer needs; skills and training; improvements in organisational management; and efficiency in resource use such as energy and investment in ICTs and modern equipment. The guide can be downloaded from www.forfas.ie.

ECB INTEREST RATES REMAIN UNCHANGED

THE European Central Bank offered further confirmation in September that interest rates are set to remain at their record low levels for the remainder of the year. It left interest rates unchanged at 1% for the fourth month in a row. Although interest's rates are not expected to be increased before 2010 the European Central Bank has indicated however that it may raise interest rates if market tensions justified this. The ECB has an exit strategy in mind from the extraordinary support measures currently in place and will act if better growth fuels upward pressure on inflation.

FUND AIDS REDUNDANT WORKERS

A special EU fund for redundant workers proved a major success last year with nearly seven out of 10 recipients finding a new job within the space of 12 months.

A report has revealed that 69% of workers helped by the European Globalisation Adjustment Fund (EGF) in 2008 found employment within a short period of losing their jobs.



Your most important business plan: your pension



Research has found that more than half of self-employed people do not have a pension. The pension provision problem is particularly acute among Irish entrepreneurs. There are currently over 345,000 entrepreneurs in Ireland, an increase of 20 % in the past 10 years. Even worse, some 81% of people working in a business with less than five employees have no pension provision. This includes most entrepreneurs, as 7 out of 10 start their business with less than 5 employees. A significant number of business owners in Ireland have not done anything about pension planning preferring to count on the success of their business to provide the funding for their lifestyle upon retirement. This approach is extremely risky and most certainly does not take advantage of the tax savings available.

PENSIONS FOR DIFFERENT BUSINESS STRUCTURES

Business ventures in Ireland will be run through one of the following structures and each structure has different Pension products available to it:

Sole trader	Personal Pension Plan & PRSA's
Partnership	Personal Pension Plan & PRSA's
Limited company	Employer Pension Plans & AVC's

PERSONAL PENSION PLAN

Individuals working through the first two structures can avail of maximum tax relief on qualifying premiums on the following limits:

Age	% of net relevant earnings
Up to 30 years	15%
30 but less than 40	20%
40 but less than 50	25%
50 but less than 55	30%
55 but less than 60	35%
60 years and over	40%

A business person may claim relief for contributions made by them to a fund that will provide an annuity when they retire — this is known as retirement annuity relief. The fund must be Revenue-approved before the relief can be claimed. When the contributor retires and begins to receive the pension, it is subject to income tax.

EMPLOYER PENSION PLAN

An employer or occupational pension plan is one that is set up by an employer to provide pension and other benefits for employees. Since a Director may also be an employee of the company, therefore they would be eligible to take advantage of the Employer Pension Plan. The main advantage of this type of plan is that an employer must make a contribution to it, even though the amount may be small.

A great surprise for many taxpayers is the generous contributions allowable by Revenue in respect of proprietary directors under current legislation. They allow far more flexibility and far higher contributions than those for the self-employed, a situation that would appear to create an incentive for self-employed business owners to set up a limited company.

An employer sets up the rules of the pension plan and appoints a 'trustee' to look after it. The employer automatically takes contributions from salary before working out income tax and Tax relief is received automatically because the employee doesn't pay tax on the pension contribution.

The income available on retirement depends on whether the employer plan is:

- a defined benefit plan; or
- a defined contribution plan.

DEFINED BENEFIT PLAN

With a defined benefit plan, the pension income and/or lump sum received on retirement is related to the employees final salary and years of service with that employer.

DEFINED CONTRIBUTION PLAN

With a defined contribution plan the pension income depends on the value of the pension fund on retirement.

ADDITIONAL VOLUNTARY CONTRIBUTIONS (AVC'S)

It is possible under an Employer Pension Plan to save more than the minimum in order to boost the pension fund. Extra contributions are known as AVC's, or 'additional voluntary contributions'.

AVC's are normally used:

- to boost the value of a pension fund
- to claw back years of service to achieve the desired pension, for example because of a career break or unpaid parental leave
- to get more tax relief on contributions subject to age.

An employer may provide AVC facilities by:

- Setting up an AVC fund, either as part of the main employer's pension plan or as a separate AVC plan or
- Arrange a personal retirement savings account (PRSA) for employees who want to make AVC's.

If there is no facility within an employer's pension plan for AVC's, an independent PRSA can be set up into which an employee can then pay the AVC's. In this case, contributions will not be automatically deducted from salary before tax. More information from Revenue on how to claim tax relief is available at www.revenue.ie

RETIREMENT AGE OPTIONS

At retirement, a self employed person can usually take a part of their pension fund as a tax-free lump sum. Then, if they meet certain conditions, they may be able to choose what they want to do with the rest of their fund. Options are

- Use it to buy an annuity (that is, a regular income for the rest of their life);
- Re-invest it in an approved minimum retirement fund (AMRF) or approved retirement fund (ARF), There are strict rules governing access to these funds so professional advice is advised
- Take the rest of the fund as taxable cash.

In the case of a Company Director they will also have the flexibility to withdraw it when needed or to pass it on to dependants.

With a personal pension plan you can decide to take your retirement benefits at any time between the ages of 60 and 75. However in some cases, e.g. if you were permanently unable to work, the Revenue Commissioners may allow you to retire before age 60. People in some specified occupations, including certain sports people, are allowed to retire early without having to be in ill health.

CRIMINAL JUSTICE (MONEY LAUNDERING & TERRORIST FINANCING) BILL, 2009-08-21

The long awaited Criminal Justice (Money Laundering and Terrorist Financing) Bill, 2009 which will give effect to the Third Money Laundering Directive 2005/60/EC ("the 3MLD") was finally published on 28 July.

The 3MLD places greater emphasis and focus on monitoring and compliance. This is reflected in the Bill with 23 sections dedicated to monitoring by competent authorities. These include for example the Law Society in respect of solicitors and the Financial Regulator in respect of credit and financial institutions, such as tax advisers who are not accountants or solicitors, and dealers in high value goods, that is, those who may receive cash receipts of €15,000 or more. These authorities will be monitored for the purposes of compliance with the Bill and any breach of the compliance procedure will give rise to potential sanctions. It is incumbent on these authorities to report suspicious transactions to An Garda Síochána and the Revenue Commissioners and to have specific procedures in place to provide to the fullest extent possible for the prevention of money laundering and terrorist financing. Moreover, for financial and credit institutions, among others, breach of the money laundering control procedures will now give rise not just to potential criminal sanctions prescribed under the legislation but, in addition, the administrative sanctions operated by the Financial Regulator. It is anticipated that this Bill will become law before the end of 2009.

CONSULTATION ON CODE OF PRACTICE FOR DOING BUSINESS IN THE GROCERY GOODS SECTOR

On Tuesday, 11 August 2009, The Tánaiste and Minister for Enterprise, Trade and Employment, Ms. Mary Coughlan, T.D., launched a public consultation process in relation to the introduction of a Code of Practice for Grocery Goods Undertakings.

The proposed introduction of such a Code of Practice follows significant public debate on grocery prices, north south price differentials, and other developments in the grocery goods sector over recent months.

The consultation launched by the Tánaiste asks eight key questions of stakeholders, including consumers, in a consultation paper available on her Department's website. The consultation paper also includes an initial draft outline for such a Code of Practice and seeks views on its provisions. The Tánaiste encouraged all stakeholders and interested parties to read the consultation paper and draft outline for a Code of Practice and make their views known by way of submission before the deadline of Wednesday 30 September 2009. Further information and a copy of the consultation paper is available on the website of the Department of Enterprise, Trade and Employment at the following website: <http://www.entemp.ie/commerce/competition/whatsnew.htm>

BETTER BANKING REGULATION

The Government has moved to amend the Companies Acts, particularly those provisions relating to transactions between banks and their directors, and to strengthen the powers of the Director of Corporate Enforcement.

When it was suggested in the High Court that the investigation by the Office of the Director of Corporate Enforcement (ODCE) into the affairs of Anglo Irish Bank was being hampered by outdated company law, the Minister for Enterprise, Trade and Employment introduced the Companies (Amendment) Act 2009. Among other things, the Act seeks to improve the transparency of loans made by banks to their directors and to give greater support to the Director of Corporate Enforcement in his efforts to enforce compliance with company law.

The main changes in respect of the increased powers of the (ODCE) are:

- A** An extension to the remit of search warrants.
- B** Extended powers of seizure to deal with large volumes of paper or electronic information to be removed for later examination.
- C** A reduction in the evidential burden on ODCE when taking action against companies in default of company law with regard to loans to their directors.
- D** Amendment of existing requirements in relation to disclosure of loans to directors.

The new powers apply whether the company being investigated is a bank or any other type of company.

€8.7 MILLION IN COURT JUDGMENTS IN FIRST QUARTER

The number of court judgments against companies in Ireland for the recovery of unpaid debt has increased significantly, reaching €8.7 million in the first quarter of 2009. This is an increase in value of 96% on the same period in 2008 despite the fact that the actual number of court judgments decreased from 369 to 286 for the period. The construction sector accounts for 20% in value of all court judgements in the first quarter of 2009 followed closely by telecommunications and business activities – both 17%. The value of court judgments against manufacturing companies more than trebled reaching the €1 million mark.

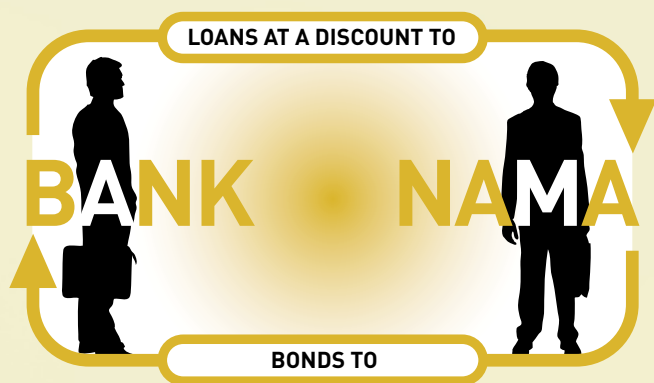


NAMA.....a solution?

A proposal for the National Asset Management Agency (NAMA) Bill 2009 was released by the Minister for Finance, Brian Lenihan on 30 July 2009. The legislation is being introduced in order to stabilise the banking and financial system in Ireland as a result of the current significant economic downturn.

It is intended that NAMA will operate by purchasing the 'bad' or riskiest loans from banks that are included under the NAMA remit at a discount. It remains to be seen which banks will come under the remit of NAMA however the banks currently under the Government's bank guarantee scheme are; Bank of Ireland, Allied Irish Banks, Anglo Irish Bank, Irish Nationwide, EBS and Irish Life and Permanent. The loans will predominantly relate to development and land loans but will also include associated loans. The banks will receive payment in the form of bonds such as Government Securities and or guaranteed securities. The developers will then owe the existing full liability to NAMA instead of the bank.

NAMA will manage these loans and will in effect put itself in the place of the banks where the loan originated. It will have the rights to vigorously pursue debts. In the event that borrowers meet their contractual obligations their rights are fully protected.



NAMA HAS SIGNIFICANT POWERS A SAMPLE OF WHICH ARE SET OUT BELOW:

- To raise capital
- To lend
- To enter joint ventures
- To let property
- To acquire land under Compulsory Purchase Orders
- To sue
- To impose an obligation to disclose information about assets on banks, accountants and solicitors etc.
- To inform other government agencies such as Revenue and the Director of Corporate Enforcement, Competition Authority, Financial Regulator and An Garda Síochána.

NAMA plans to buy up to €90 billion worth of property loans at a discount of 20-25%. NAMA will then pay the banks additional sums of monies to administer the loans. The banks have said that the individuals who sanctioned the loans will not be assigned to the management of the loans. The real question of course is how NAMA will value the property. The draft legislation states that the valuations will be carried out with reference to the current market value of the property on an arms length basis while taking into account the long term economic value of the property and the net present value of the anticipated income stream that could be generated by the asset.

The recent decision by the ACC Bank to begin proceedings to recover debt from some large property developers has resulted in a number of high profile court cases. If ACC are successful in its attempts to appoint receivers, it could trigger a fire sale of property which it is anticipated will reduce the base cost of all properties in Ireland and ultimately could undermine the valuation process to be used by NAMA. It is hoped that once all the debt is taken off the Banks that they will be in better shape and able to raise funds and begin to lend and trade on a commercial basis again. However it is likely that banks will be far more cautious about lending in the future and that it may be the New Year before a noticeable improvement is seen.

Where developers default on the loans NAMA will have to go to court to take possession of the property. NAMA has included a provision restricting the circumstances under which a developer can appeal a High Court decision to the Supreme Court to 'a point of law which is of exceptional public importance' in a bid to avoid tying up loans in legal battles. NAMA will then have to find a purchaser for the property in the hope of recouping some of the loan. The Minister has indicated that the developers will be precluded from purchasing the property at a post-boom price from NAMA.

It is clear that NAMA intends to pursue the developers for the full loan amounts. Where developers have given personal guarantees as security for these loans, NAMA have the power to call the guarantees in where the amounts received on the sale of the assets is less than the actual liabilities. This could see NAMA repossessing developers homes and personal items. Where developers have unfinished projects NAMA will have the power to lend to developers or enter into a joint venture type structure to finish out the project. The exact details of this type of scheme have not been disclosed.

The Dail is due to reconvene on 16 September where it is expected that the proposal will be debated. The Minister is also to release the formula which NAMA will use to calculate the long term economic value of assets in September.