



Rialtas na hÉireann
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Frequently Asked Questions - Proposed Approach to Support Remediation of Defects in Apartments and Duplexes

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Housing, Local Government and Heritage
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Proposed Approach to Support Remediation of Defects in Apartments and Duplexes

The Government has announced plans to draft legislation to support the remediation of apartments and duplexes with fire safety, structural safety and water ingress defects, constructed between 1991 and 2013. The legislation will provide for the establishment of a remediation scheme. The following Frequently Asked Questions document is intended to provide an indication of what the remediation scheme might do and how it might operate. The scope, eligibility and conditions of the remediation scheme will ultimately depend on the legislation that is passed by the Houses of the Oireachtas and signed into law by the President.

Given that the overall potential scale and estimated cost of fixing the problem is considerable, it is likely that it will take many years to remediate all affected buildings. Resources and works, therefore, will need to be prioritised.

In Housing for All, the Government's housing plan, there is a commitment to examine the issue of defects in housing through the independent working group, to identify the nature and scale of the problem, having regard to the recommendations of the Joint Oireachtas Committee on Housing report, 'Safe as Houses?'

Who will be eligible for financial support with remediation works?

A 'whole building approach' needs to be taken to remediate defects in apartments and duplexes in order to improve the safety of all occupants in the building. This means that all parts of the building (e.g. the common areas, the individual apartments etc.) must be considered together when addressing defects.

In light of their existing legal responsibilities and ownership of common areas, it is proposed that Owners' Management Companies (OMCs) will be funded to carry out the necessary remediation works. It is intended that there will be specific limitations or exemptions on certain commercial owners.

What works will be covered by the scheme?

It is proposed that the scheme will cover works to remediate fire safety, structural safety or water ingress defects in purpose-built apartments and duplexes constructed between 1991 and 2013.

It is intended that only works relating to defects that are attributable to defective design, defective or faulty workmanship or defective materials (or any combination of these) and were in contravention of the Building Regulations applicable at the time of construction will be eligible for inclusion in the scheme.

Work to remediate defects arising from the following circumstances will not be included within the scope of the scheme:

- those that originate from inadequate maintenance, or
- a failure of sinking funds to adequately allow for end-of-life replacement of building and safety systems, or
- inadequate management of later works to the building that have inadvertently resulted in defects

When must a building have been built in order to qualify for remediation support?

It is proposed that the scheme will, in general, apply to purpose-built apartments and duplexes, constructed between 1991 and 2013, with fire safety, structural safety or water ingress defects.

When will the scheme be operational?

On 18 January 2023, the Minister for Housing, Local Government and Heritage, Darragh O'Brien, TD, announced plans to draft legislation to support the remediation of apartments and duplexes with fire safety, structural safety or water ingress defects.

It is proposed that the scheme will become operational following implementation of the required legislation. Subject to the legislative process, it is intended that a scheme would be in place in 2024.

In order to ensure that important life-safety works are not paused, remediation works related to fire safety defects, entered into or commenced from 18 January 2023, will form part of the remediation scheme, and will be subject to the scheme's terms and conditions. Such works will need to be agreed with the relevant local authority's Fire Services. The details of this process will be worked out as a priority and provided in due course.

How much financial support will be available?

It is intended that a 'whole building approach' will be taken to remediate relevant defects and to improve the safety of all occupants in the building. This means that all parts of the building (e.g. the common areas, the individual apartments etc.) must be considered together when addressing defects. In light of their existing legal responsibilities and ownership of common areas, Owners' Management Companies will be funded to carry out the necessary remediation works, with specific limitations or exemptions on certain commercial owners.

The amount of funding will depend on the nature and extent of defects to be remediated.

How will the scheme be operated?

It is envisaged that the scheme will be administered by the Housing Agency on a nationwide basis. In addition, an effective advice and information service within the Housing Agency will be established to provide support for Owners' Management Companies (OMCs) and homeowners (who are also members of the OMC).

Will homeowners who have done remediation works be entitled to retrospective financial support?

Government have approved the principle of allowing remediation costs already incurred or levied to be covered under the legacy defects scheme, within the scope and defined parameters of said scheme.

What happens if a homeowner wants to undertake remediation works but other homeowners in a housing complex don't?

A 'whole building approach' needs to be taken to remediate defects in order to improve the safety of all occupants in the building. This means that all parts of the building (e.g. the common areas, the individual apartments etc.) must be considered together when addressing defects.

In light of their existing legal responsibilities and ownership of common areas, Owners' Management Companies will be central to organising and facilitating the necessary remediation works.

Who should I contact to get remediation works done?

Owners' Management Companies are responsible for procuring remediation works that affect the common areas of apartments and duplexes.

Irrespective of the establishment of the scheme, responsibility for fire safety continues to rest with those who control a premises. This is set out in the Fire Services Acts.

What is the best way to check if my property has defects?

In the first instance, homeowners should contact their Owners' Management Companies (OMCs) if they become aware of, or suspect the presence of, fire safety, structural safety or water ingress defects in apartments or duplexes.

The OMC should engage a competent person to conduct an inspection of the building if they become aware of, or suspect the presence of, fire safety, structural safety or water ingress defects in apartments and duplexes.

What is the Government doing to ensure buildings built now and in the future are not defective, like those covered by the proposed remediation scheme?

A range of building control reforms which focus on ensuring strong and effective regulation in the building control system and the construction industry and on improving compliance with Building Regulations have been implemented since 2014.

This includes:

- a. implementation of the Building Control (Amendment) Regulations 2014 (S.I. No. 9 of 2014). These Regulations empower competence and professionalism

in construction projects and establish a chain of responsibility that begins with the owner. In regard to apartments/duplexes, the owner must assign competent persons to design, build, inspect and certify the building works who, in turn, must account for their role through the lodgement of compliance documentation, inspection plans and statutory certificates. The roles and responsibilities of owners, designers, builders, assigned certifiers, etc. during building works are set out in the Code of Practice for Inspecting and Certifying Buildings and Works. The Code of Practice also provides guidance on use of proper materials and the need to check supporting documentation under the Construction Products Regulation (e.g. Declaration of Performance) and additional national guidance (e.g. Standard Recommendations produced by NSAI).

- b. the creation of the National Building Control Management Project and the establishment of the National Building Control & Market Surveillance Office to provide oversight, support and direction for the development, standardisation and implementation of Building Control as an effective shared service in the 31 Building Control Authorities.
- c. The enactment in July 2022 of the Regulation of Providers of Building Works and Miscellaneous Provisions Act 2022. This Act develops and promotes a culture of competence, good practice and compliance with the Building Regulations in the construction sector. The Act will put the Construction Industry Register Ireland on a statutory footing and aims to benefit consumers and the general public by giving those who engage a registered builder the assurance that they are dealing with a competent and compliant operator. The Act also allows for complaints against registered builders to be made on a number of grounds – in particular an entity providing building services in a category in which they are not registered. It provides for a range of proportionate sanctions to be imposed after investigation. Complaints in relation to building regulations will continue to be dealt with under the Building Control Act.

To further strengthen the Building Control System, the Minister has confirmed his intention to develop proposals for the establishment of an independent building standards regulator. The Minister aims to bring these proposals to Government for consideration when completed.

The Minister's objective is to ensure that an independent building standards regulator has sufficient breadth of scope, effective powers of inspection and enforcement, and an appropriate suite of sanctions to apply where non-compliance arises in respect of buildings. Housing for All, the Government's housing plan, committed to: "Examine the merits of the creation of an independent Building

Standards Regulator to oversee building control nationwide and to act as custodian of the Building Control Management System.”

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