



STATUTORY INSTRUMENTS.

S.I. No. 85 of 2022



DWELLINGS DAMAGED BY THE USE OF DEFECTIVE CONCRETE
BLOCKS IN CONSTRUCTION (REMEDIATION) (FINANCIAL
ASSISTANCE) (AMENDMENT) REGULATIONS 2022

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I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the functions conferred on me by section 5 of the Housing (Miscellaneous Provisions) Act 1979 (No. 27 of 1979) (amended by Article 3 of the Finance (Transfer of Departmental Administration and Ministerial Functions) Order 2015 (No. 318 of 2015) and adapted by the Housing, Planning and Local Government (Alteration of Name of Department and Title of Minister) Order 2020 (S.I. No. 408 of 2020)), with the consent of the Minister for Public Expenditure and Reform, hereby make the following regulations:

Citation

1. These Regulations may be cited as the Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) (Amendment) Regulations 2022.

Definition

2. In these Regulations, "Principal Regulations" means the Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020 (S.I. No. 25 of 2020).

Amendment of Regulation 3 of Principal Regulations

3. Regulation 3 of the Principal Regulations is amended by –

(a) inserting the following definitions:

“ ‘building condition assessment report’ means a report prepared by a competent engineer in accordance with I.S. 465:2018;

‘essential immediate repair works’ means works identified by a competent engineer in –

(a) a building condition assessment report prepared pursuant to paragraph 5.2 of I.S. 465:2018, or

(b) additional information supplied because of a change of circumstances,

that relate to the structural stability of any part of a home affected by defective concrete blocks that require necessary immediate action, and which may include such work carried out before the application for confirmation

for eligibility, where such application is made on, or after, 31 January 2020;”, and

- (b) in the definition of “qualifying works” by –
 - (i) in paragraph (c), by substituting “dwelling,” for “dwelling, and”,
 - (ii) in paragraph (d), by substituting “dwelling, and” for “dwelling;”, and
 - (iii) by inserting after paragraph (d) the following paragraph:
 - “(e) essential immediate repair works.”.

Amendment of Regulation 7(a) of Principal Regulations

4. Regulation 7(a) of the Principal Regulations is amended by substituting “engineer’s report, remedial works plan or essential immediate repair works, that” for “engineer’s report or a remedial works plan, that”.

Amendment of Regulation 8 of Principal Regulations

5. Regulation 8 of the Principal Regulations is amended –

- (a) by substituting for paragraph (3) the following paragraph:
 - “(3) Without prejudice to Regulation 10(1), an applicant may, when applying for confirmation of eligibility and, in the case of a cost referred to in paragraph (b), at any point up to the date that the decision regarding confirmation of eligibility is made, seek payment towards –
 - (a) the discharge of the fees connected with the provision of the engineer’s report submitted to the relevant local authority in accordance with paragraph (2)(a), and
 - (b) the cost of essential immediate repair works already completed.”.
- (b) in paragraph (6), by substituting “any change of circumstances, including the need to carry out essential immediate repair works, that” for “any change of circumstances that”, and
- (c) by substituting for paragraph (11) the following paragraphs:
 - “(11) Subject to Regulation 10(8), where an applicant has sought payment pursuant to paragraph (3)(a) towards the discharge of the fees connected with the provision of the engineer’s report submitted to the relevant local authority in accordance with paragraph (2)(a), the relevant local authority may in the case of an application for confirmation of eligibility received –
 - (a) before the date of the coming into operation of the Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation)

(Financial Assistance) (Amendment) Regulations 2022, make arrangements for the payment to the applicant, as soon as reasonably practicable after receipt of the application for confirmation of eligibility, or

- (b) on or after the date of the coming into operation of the Regulations mentioned in subparagraph (a), make arrangements for the payment to the applicant, as soon as reasonably practicable after the issue of the confirmation of eligibility, towards the discharge,

of 90% of the fees connected with the provision of the report set out in the invoice submitted to the local authority in accordance with paragraph (4), provided that such payment does not exceed €6,300.

(12) Subject to Regulation 10(8), where a relevant local authority issues confirmation of eligibility to an applicant in respect of a relevant dwelling and the applicant has sought payment pursuant to paragraph (3)(b) towards the cost of essential immediate repair works, the relevant local authority may make arrangements for the payment to the applicant, as soon as reasonably practicable after the issuing of the confirmation of eligibility, towards the discharge of 90% of the cost as set out in the invoice submitted to the local authority in accordance with paragraph (5), provided that such payment does not exceed €5,000.”.

Insertion of Regulation 8A into Principal Regulations

6. The Principal Regulations are amended by inserting after Regulation 8 the following Regulation:

“Evidence to support application for cost of immediate repair works

“8A. Where an applicant seeks a payment for the cost of essential immediate repair works under these Regulations, he or she shall provide to the relevant local authority concerned the following:

- (a) a written statement from the contractor and the competent engineer concerned that the essential immediate repair works to the relevant dwelling concerned for which a payment is being sought have been completed to their satisfaction;
- (b) an invoice prepared by the contractor concerned, detailing in an itemised manner, the qualifying works carried out by the contractor and the cost of each element of such works, if any, in respect of which the scheme participant is seeking payment;
- (c) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the contractor, engineer or applicant, as the case may be,

concerned in accordance with section 1095 of the Taxes Consolidation Act 1997 and that such tax clearance certificate has not been rescinded under subsection (3A) of that section.”.

Amendment of Regulation 9 of Principal Regulations

7. Regulation 9 of the Principal Regulations is amended –

- (a) in paragraph (2) –
 - (i) in subparagraph (a), by substituting “Regulation 8(2)(a) and any information that may have been submitted in accordance with paragraph (5) or (6) of that Regulation relating to essential immediate repair works;” for “Regulation 8(2)(a);”, and
 - (ii) by inserting after subparagraph (j) the following subparagraph:
 - “(ja) where a payment has been made to the eligible applicant under Regulation 8(12) in respect of the cost of essential immediate repair works, written confirmation, in such form as the Minister may specify, of the amount of the payment;”, and
- (b) by inserting after paragraph (2) the following paragraph:
 - “(2A) Without prejudice to Regulation 10(1), an applicant may, when applying for confirmation of grant approval or at any point up to the date of a decision regarding that application for confirmation of grant approval, seek payment towards -
 - (a) the discharge of the fees connected with the provision of the engineer’s report submitted to the relevant local authority in accordance with paragraph (2)(a), and
 - (b) the cost of essential immediate repair works already completed.”,
- (c) in paragraph (5), by substituting “any change of circumstances, including the need to carry out essential immediate repair works, that” for “any change of circumstances that”,
- (d) in paragraph (8) -
 - (a) in subparagraph (b), by substituting “concerned,” for “concerned, and”,
 - (b) in subparagraph (c), by substituting “lesser, and” for “lesser.”, and
 - (c) by inserting after subparagraph (c) the following subparagraph:

“(ca) where a payment has been made under Regulation 8(12) in respect of the cost of essential immediate repair works and paragraph (9) does not apply, set out the amount of the approved cost in respect of which the eligible applicant can seek payment under Regulation 10 being the amount of the approved cost less the amount of the fees connected with –

- (i) the provision of the report set out in the invoice submitted to the local authority in accordance with Regulation 8(4)(a) or €7,000, whichever is the lesser, and
- (ii) the cost of essential immediate repair works set out in the invoices submitted to the local authority in accordance with Regulation 8(5) or €5,555, whichever is the lesser.”,

(e) by inserting after paragraph (8) the following paragraph:

“(8A) Subject to Regulation 10(8), where a relevant local authority issues confirmation of grant approval to an applicant in respect of a relevant dwelling and the applicant has sought payment pursuant to paragraph (2A) towards the discharge of the fees connected with the cost of essential immediate repair works already completed, the relevant local authority may make arrangements for the payment, as soon as reasonably practicable after the issuing of the confirmation of grant approval, to the applicant towards the discharge of such fees of 90% of the fees connected with the provision of the cost of such works as are vouched in accordance with Regulation 8A, provided that such payment does not exceed a maximum of €5,000.”, and

(f) in paragraph (9)(a), by substituting “lesser, less the cost of essential immediate repair works set out in the invoices submitted to the local authority in accordance with Regulation 8(5) or €5,555, whichever is the lesser, and” for “lesser, and”.

Amendment of Regulation 10 of Principal Regulations

8. Regulation 10 of the Principal Regulations is amended –

(a) in paragraph (2) by inserting after subparagraph (h) the following subparagraph:

“(ha) where a payment has been made to a scheme participant in accordance with –

- (i) paragraph (12) of Regulation 8, or

- (ii) paragraph (8A) of Regulation 9,
towards the discharge of the cost of essential immediate repair works submitted to the relevant local authority in accordance with paragraph (2) of Regulation 8 or 9, as the case may be, written confirmation, in such form as the Minister may specify, of the amount of the payment made;” and
- (b) in paragraph (6)(d), by substituting “85%” for “75%” in both places where it occurs.

The Minister for Public Expenditure and Reform consents to the making of the foregoing Regulations.



GIVEN under my Official Seal,
24 February, 2022.

MICHAEL MCGRATH,
Minister for Expenditure and Reform.



GIVEN under my Official Seal,
24 February, 2022.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) (Amendment) Regulations 2022 amend the Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020 so as;

- i. to make provision, in the case of an application for confirmation of eligibility received before the date of the coming into operation of these regulations, for the recoupment of the fees connected with the provision of the engineer's report without the need for a prior stage 1 confirmation of eligibility
- ii. to make provision for the inclusion as an allowable cost 'essential immediate repair works', up to a value of €5,555, which are identified by a competent engineer in a 'building condition assessment report' and relate to the structural stability of any part of a home affected by defective concrete blocks
- iii. to make provision for an increase from 75% to 85% in the value of stage payments which can be recouped to an approved applicant prior to the final grant payment

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