



STATUTORY INSTRUMENTS.

S.I. No. 25 of 2020



DWELLINGS DAMAGED BY THE USE OF DEFECTIVE CONCRETE
BLOCKS IN CONSTRUCTION (REMEDIATION) (FINANCIAL
ASSISTANCE) REGULATIONS 2020

S.I. No. 25 of 2020

Dwellings Damaged by the Use of Defective Concrete Blocks in Construction
(Remediation) (Financial Assistance) Regulations 2020

I, EOGHAN MURPHY, Minister for Housing, Planning and Local Government, in exercise of the powers conferred on me by, in respect of Regulation 2 of the following regulations, section 2, having consulted with the Minister for Finance and the Minister for Transport, Tourism and Sport (as adapted by the Public Service (Alteration of Name of Department and Title of Minister) Order 1987 (S.I. No. 83 of 1987)) and section 5 of the Housing (Miscellaneous Provisions) Act 1979 (No. 27 of 1979) (as adapted by the Housing, Planning, Community and Local Government (Alteration of Name of Department and Title of Minister) Order 2017 (S.I. No. 358 of 2017)), and 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) Regulations 2020.

Designation and authorisation by Minister of housing authorities to discharge function of paying grants

2. The following housing authorities are authorised to discharge on behalf of the Minister the function of paying grants to be paid under these Regulations:

- (a) Donegal County Council, in the case of relevant dwellings located in the administrative area of that council;
- (b) Mayo County Council, in the case of relevant dwellings located in the administrative area of that council.

Interpretation

3. In these Regulations -

“applicant” has the meaning assigned to it by Regulation 8(2);

“application for confirmation of eligibility” means an application under Regulation 8;

“application for grant approval” means an application under Regulation 9;

“application for payment” means an application under Regulation 10;

“approved cost” means the cost approved by a relevant local authority as the reasonable cost of carrying out the qualifying works required for the relevant remedial option concerned, the maximum amount of which shall not exceed the maximum approved cost set out in column (4) of the Schedule opposite a particular reference number set out in column (1) of that Schedule in respect of

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 4th February, 2020.*

the relevant remedial option concerned set out in column (2) thereof opposite that particular reference number;

“certificate of remediation”, in relation to a relevant dwelling, means a certificate, in such form as may be specified by the Minister, signed by a contractor and a competent engineer certifying that, on a stated date on or before the date on which the certificate is signed, the qualifying works to the dwelling carried out and supervised by the contractor, and designed and inspected by the competent engineer -

- (a) were completed in accordance with the remedial works plan concerned, and
- (b) are compliant with the requirements of the Second Schedule to the Building Regulations 1997 (S.I. No. 497 of 1997);

“competent engineer” means a chartered engineer who is listed on the register, commonly known as the I.S. 465:2018 Register (Concrete Blocks and Mica), established and maintained by the Institute of Engineers of Ireland, of chartered engineers who have the necessary direct professional experience, competence and specialist training in accordance with the requirements set out in I.S. 465:2018;

“confirmation of eligibility” has the meaning assigned to it by Regulation 8(1);

“confirmation of grant approval” has the meaning assigned to it by Regulation 9(1);

“contractor” means an individual, sole trader, partnership or registered company who or that carries out, or who or that it is proposed will carry out, some or all of the qualifying works to a relevant dwelling pursuant to a remedial works plan;

“defective concrete blocks” means concrete blocks that contain excessive amounts of certain deleterious materials, namely free or unbound muscovite mica or reactive pyrite, or a combination of both, and in respect of which I.S. 465:2018 applies;

“dwelling” includes a house, an apartment, a duplex or a maisonette;

“eligible applicant” has the meaning assigned to it by Regulation 9(1);

“engineer’s report” has the meaning assigned to it by Regulation 6;

“final payment”, in relation to a relevant dwelling, means the final payment payable by a relevant local authority to a scheme participant under these Regulations in respect of that dwelling;

“I.S. 465:2018” means Irish Standard 465:2018 Assessment, testing and categorisation of damaged buildings incorporating concrete blocks containing certain deleterious materials, published by the National Standards Authority of Ireland and any amendment thereto;

“Minister” means the Minister for Housing, Planning and Local Government;

“programme of works”, in relation to a relevant dwelling, means a document prepared by the contractor who it is proposed will carry out the works concerned, in which the anticipated duration and sequencing of the works

required for and associated with the relevant remedial option specified in the remedial works plan relating to the relevant dwelling are set out;

“qualifying works”, in relation to a relevant dwelling, means works required for or ancillary to the remediation, in accordance with the relevant remedial option recommended in respect of the dwelling, of damage to the dwelling arising out of, or in connection with, the use of defective concrete blocks in its construction, and includes -

- (a) the supervision, oversight and inspection of such works,
- (b) the preparation of an engineer’s report in respect of the dwelling, including such investigation or assessment of the damage as forms part of the engineer’s report,
- (c) the preparation of a remedial works plan in respect of the dwelling, and
- (d) the provision of a certificate of remediation in respect of the dwelling,

and all activities related to the foregoing;

“relevant dwelling” has the meaning assigned to it by Regulation 4;

“relevant local authority” means, in relation to a relevant dwelling, the housing authority, being either Donegal County Council or Mayo County Council, as the case may be, in the administrative area of which the dwelling is located;

“relevant owner” has the meaning assigned to it by Regulation 5;

“relevant person”, in relation to the issue of a tax clearance certificate, means –

- (a) the competent engineer who provided the engineer’s report, who prepared the remedial works plan or who provided the certificate of remediation and professional oversight of the qualifying works concerned, as the case may be,
- (b) where the competent engineer who performed the activity referred to in paragraph (a) concerned did so in the course of his or her employment and the fees connected with such activity are sought to be paid to the employer of that competent engineer, that employer, or
- (c) where the competent engineer who performed the activity referred to in paragraph (a) concerned did so in the course of his or her work as a partner in a partnership and the fees connected with such activity are sought to be paid to the partnership, the partnership concerned;

“relevant remedial option”, in relation to a relevant dwelling, means the remedial option recommended in the engineer’s report as representing the remedial option requiring the minimum feasible remedial works to the dwelling for the remediation of the damage to the dwelling arising out of, or in connection with, the use of defective concrete blocks in its construction;

“remedial option” means a remedial option referred to in -

- (a) Clause 8.2, entitled “Dwellings exhibiting structural wall damage from deterioration of blocks made from aggregates containing excessive free muscovite mica”, of I.S. 465:2018, in respect of dwellings exhibiting damage from deterioration of concrete blocks made from aggregates containing excessive free muscovite mica, or
- (b) Clause 8.3, entitled “Dwellings exhibiting structural wall damage due to pyrite induced expansion in concrete blocks”, of I.S. 465:2018, in respect of dwellings exhibiting damage due to pyrite induced expansion in concrete blocks;

“remedial works plan”, in relation to a relevant dwelling, means a plan for the design, specification and inspection of the works required to be carried out to the dwelling for the purposes of the relevant remedial option, having regard to I.S. 465:2018, which is prepared by a competent engineer;

“scheme participant” has the meaning assigned to it by Regulation 10(1);

“specify” means specify in guidelines issued under section 5 of the Housing (Miscellaneous Provisions) Act 2009 to the relevant local authorities;

“total amount of grant”, in relation to a relevant dwelling, means the total amount payable under these Regulations in respect of that dwelling.

Relevant dwelling

4. (1) For the purposes of these Regulations, a “relevant dwelling”-

- (a) means a dwelling -
 - (i) that is located in the administrative area of a relevant local authority,
 - (ii) the construction of which was completed prior to the date of the coming into operation of these Regulations,
 - (iii) that is not owned by a public body,
 - (iv) in the construction of which defective concrete blocks were used, and
 - (v) to which damage arose out of, or in connection with, the use of defective concrete blocks in its construction,
 and
- (b) does not include -
 - (i) a building or part of a building or outoffice that is not attached to a dwelling,
 - (ii) a yard, garden or other land appurtenant to a dwelling, or
 - (iii) a building, other than a building comprising apartments, duplexes or maisonettes (or any combination of such dwellings), that provides multi-occupancy accommodation under specific conditions, including, but not limited to, a nursing home, a boarding school, a hotel or a hostel.

- (2) In this Regulation, “public body” means -
- (a) a Minister of the Government,
 - (b) the Office of the Comptroller and Auditor General,
 - (c) a local authority,
 - (d) the Health Service Executive,
 - (e) a person established-
 - (i) by or under any enactment (other than the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act),
 - (ii) by any scheme administered by the Government, or
 - (iii) under the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act, in pursuance of powers conferred by or under another enactment, and financed wholly or partly, whether directly or indirectly, by means of moneys provided, or loans made or guaranteed, by a Minister of the Government or by subscription for shares held by or on behalf of a Minister of the Government,
- or
- (f) a company (within the meaning of the Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act), a majority of the shares in which are held by or on behalf of a Minister of the Government.

Relevant owner

5. (1) For the purposes of these Regulations, a “relevant owner”, in relation to a relevant dwelling, means an individual who owns the dwelling, whether jointly or not, where -

- (a) he or she -
 - (i) became an owner of the dwelling prior to the date of the coming into operation of these Regulations,
 - (ii) inherited the dwelling on or after the date of the coming into operation of these Regulations, or
 - (iii) subject to paragraph (2), purchases the dwelling on or after the date of the coming into operation of these Regulations,
- (b) the dwelling is the individual’s principal private residence, and
- (c) the individual intends in good faith to reside in the dwelling as his or her principal private residence on completion of the qualifying works to the dwelling.

(2) Where a person purchases a dwelling on or after the date of the coming into operation of these Regulations, he or she shall not be a relevant owner for

the purposes of these Regulations where he or she knew, or ought to have known, that defective concrete blocks were used in the construction of the dwelling.

(3) For the purposes of paragraph (1)(b), a dwelling may be deemed to be the individual's principal private residence where the dwelling was the individual's principal private residence but ceased to be such by virtue of the damage to the dwelling arising out of, or in connection with, the use of defective concrete blocks in its construction.

Engineer's report

6. For the purposes of these Regulations, an "engineer's report" means -
 - (a) a final report prepared in accordance with I.S. 465:2018 by a competent engineer in respect of a relevant dwelling, that sets out confirmation of the existence of damage to the dwelling arising out of, or in connection with, the use of defective concrete blocks in the construction of the dwelling, and
 - (b) a recommendation by the competent engineer who prepared the final report referred to in paragraph (a), the form of which may be specified by the Minister, of a relevant remedial option in respect of the relevant dwelling that represents the minimum feasible remedial works outlined in that final report.

Application of Regulations

7. These Regulations shall apply only in respect of -
 - (a) qualifying works to a relevant dwelling, other than the preparation of an engineer's report or a remedial works plan, that have not been commenced prior to confirmation of grant approval being issued in respect of the dwelling,
 - (b) individuals who have not received a payment under these Regulations in respect of another dwelling, and
 - (c) dwellings that have not previously received a confirmation of grant approval under Regulation 9(7).

Confirmation of eligibility

8. (1) A relevant owner of a relevant dwelling may apply to a relevant local authority for confirmation that he or she is eligible to be considered for confirmation of grant approval in respect of the dwelling for the carrying out of the qualifying works required for or ancillary to the relevant remedial option for the dwelling (in these Regulations referred to as "confirmation of eligibility").

(2) An application by a relevant owner (in these Regulations referred to as the "applicant") under this Regulation shall be in such form as the Minister may specify and shall include the following:

- (a) an engineer's report in respect of the relevant dwelling concerned;
- (b) proof, in such form as the Minister may specify, that the dwelling concerned is a relevant dwelling;
- (c) proof, in such form as the Minister may specify, that the applicant concerned is a relevant owner of the dwelling concerned;
- (d) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the applicant 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;
- (e) such information as the relevant local authority may require to be satisfied that there are no outstanding amounts payable in respect of local property tax for the relevant dwelling concerned;
- (f) written consent by the applicant, in such form as the Minister may specify, to the inspection of the relevant dwelling for the purposes of these Regulations by a suitably qualified person authorised in that regard by the relevant local authority, at such time or times as the relevant local authority may consider necessary;
- (g) where the applicant is a joint owner of the relevant dwelling, written consent, in such form as the Minister may specify, by each joint owner other than the applicant to the inclusion of the relevant dwelling concerned in the scheme for the payment of grants under these Regulations and, in particular, to the making by the applicant of an application under this Regulation and such applications under Regulations 9 and 10 as may be applicable in respect of the dwelling concerned;
- (h) a declaration by the applicant, in such form as the Minister may specify -
 - (i) that no payment otherwise than under these Regulations has been made to or for the benefit of the applicant in respect of damage to the relevant dwelling arising out of, or in connection with, the use of defective concrete blocks in its construction, or
 - (ii) that such a payment has been made to or for the benefit of the applicant in respect of such damage and setting out the amount of the payment.

(3) Without prejudice to Regulation 10(1), an applicant may, when applying for confirmation of eligibility, seek payment 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).

(4) Where an applicant seeks a payment towards the discharge of the fees connected with the provision of the engineer's report pursuant to paragraph (3), he or she shall provide to the relevant local authority concerned -

- (a) an invoice from the competent engineer detailing the fees connected with the provision of such report, and
- (b) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the relevant person 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.

(5) The relevant local authority, in considering an application made under this Regulation, may -

- (a) request the applicant to clarify in writing any information submitted to it in respect of the application,
- (b) request the applicant to supply further documents or information in respect of the application, or
- (c) make such enquiries as it considers necessary for the purpose of assessing the application, including causing the relevant dwelling concerned to be inspected by a suitably qualified person authorised in that regard by the relevant local authority.

(6) Where an applicant becomes aware of any change in circumstances that affects his or her application under this Regulation submitted to the relevant local authority, he or she shall, as soon as is reasonably practicable, notify the relevant local authority in writing of the change in circumstances.

(7) In considering an application under this Regulation, the relevant local authority shall also take into account -

- (a) additional documents or information obtained by the local authority in accordance with paragraph (5), if any, and
- (b) a change of circumstances notified to the local authority in accordance with paragraph (6), if any.

(8) The relevant local authority, having considered an application made under this Regulation, may issue a confirmation of eligibility to the applicant in respect of the relevant dwelling the subject of the application, where the local authority is satisfied that the applicant has complied with the requirements set out in paragraph (2) and, in particular that, in respect of the engineer's report submitted in accordance with paragraph (2)(a) -

- (a) the final report therein has been prepared in accordance with I.S. 465:2018, and
- (b) the relevant remedial option in respect of the relevant dwelling contained in the recommendation in the engineer's report represents the minimum feasible remedial works outlined in the final report.

(9) The relevant local authority, having considered an application made under this Regulation, may decide not to issue a confirmation of eligibility to an applicant where the local authority is not satisfied of the matters referred to in paragraph (8).

- (10) (a) A confirmation of eligibility issued under paragraph (8) shall be in writing.
- (b) A decision under paragraph (9) shall be in writing and shall include reasons for the decision.

(11) 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) 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 make arrangements for the payment, as soon as reasonably practicable after the issuing of the confirmation of eligibility, to the applicant towards the discharge of such fees 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)(a), provided that such payment does not exceed a maximum of €6,300.

Grant approval

9. (1) An applicant who has received a confirmation of eligibility in respect of a relevant dwelling (in these Regulations referred to as an "eligible applicant") may apply to a relevant local authority for confirmation that he or she is eligible to be considered for the payment of a grant in accordance with these Regulations in respect of the carrying out of the qualifying works required for or ancillary to the relevant remedial option for the dwelling concerned and a confirmation of the approved cost of those works (in these Regulations referred to as "confirmation of grant approval").

(2) An application under this Regulation shall be in such form as the Minister may specify and shall include the following:

- (a) the engineer's report in respect of the relevant dwelling submitted to the relevant local authority in accordance with Regulation 8(2)(a);
- (b) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the relevant person in relation to provision of the engineer's report referred to in subparagraph (a) 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;
- (c) proof, in such form as the Minister may specify, that the dwelling concerned is a relevant dwelling;
- (d) proof, in such form as the Minister may specify, that the eligible applicant concerned is a relevant owner;

- (e) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the eligible applicant 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;
- (f) a copy of the confirmation of eligibility concerned;
- (g) a remedial works plan relating to the relevant dwelling concerned;
- (h) where the competent engineer who prepared the remedial works plan is not the competent engineer who provided the engineer's report referred to in subparagraph (a), such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the relevant person in relation to the remedial works plan 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;
- (i) a programme of works relating to the relevant dwelling concerned;
- (j) where a payment has been made to the eligible applicant under Regulation 8(11) in respect of the engineer's report, written confirmation, in such form as the Minister may specify, of the amount of the payment;
- (k) an itemised statement from a contractor detailing, in respect of the elements of the qualifying works detailed in the programme of works which it is proposed the contractor will carry out, the proposed cost of such works and of his or her role in the provision of a certificate of remediation in respect of those works;
- (l) an itemised statement from the competent engineer who prepared the remedial works plan detailing his or her -
 - (i) fees for the preparation of the remedial works plan,
 - (ii) proposed fees for professional oversight of the implementation of the proposed qualifying works, and
 - (iii) proposed fees for his or her role in the provision of a certificate of remediation in respect of the proposed qualifying works;
- (m) a declaration by the eligible applicant in such form as the Minister may specify -
 - (i) that no payment otherwise than under these Regulations has been made to or for the benefit of the eligible applicant in respect of damage to the relevant dwelling arising out of or in connection with the use of defective concrete blocks in its construction, or

- (ii) that such a payment has been made to or for the benefit of the eligible applicant in respect of such damage and setting out the amount of the payment;
- (n) such information as the relevant local authority may require to be satisfied that there are no outstanding amounts payable in respect of local property tax for the relevant dwelling concerned;
- (o) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the contractor referred to in paragraph (k) 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.

(3) Where the competent engineer who prepared the remedial works plan referred to in paragraph (2)(g) is not the competent engineer who provided the engineer's report referred to in paragraph (2)(a), an application under this Regulation shall include a confirmation in writing from the competent engineer who prepared the remedial works plan, that, having exercised reasonable skill, care and diligence, he or she is satisfied that the relevant remedial option recommended in the engineer's report represents the remedial option requiring the minimum feasible remedial works to the dwelling for the remediation of the damage to the dwelling arising out of, or in connection with, the use of defective concrete blocks in its construction.

(4) The relevant local authority, in considering an application made under this Regulation, may -

- (a) request the eligible applicant to clarify in writing any information submitted to it in respect of the application,
- (b) request the eligible applicant to supply further documents or information in respect of the application, or
- (c) make such enquiries as it considers necessary for the purpose of assessing the application, including causing the relevant dwelling concerned to be inspected by a suitably qualified person authorised in that regard by the relevant local authority.

(5) Where an eligible applicant becomes aware of any change in circumstances that affects his or her application under this Regulation, he or she shall, as soon as is reasonably practicable, notify the relevant local authority in writing of the change in circumstances.

(6) In considering an application under this Regulation, the relevant local authority shall also take into account -

- (a) additional documents or information obtained by the local authority in accordance with paragraph (4), if any, and
- (b) a change of circumstances notified to the local authority in accordance with paragraph (5), if any.

(7) The relevant local authority, having considered an application made under this Regulation, may issue a confirmation of grant approval to the

eligible applicant concerned in respect of the relevant dwelling concerned, where the local authority is satisfied that -

- (a) the eligible applicant has complied with the requirements set out in paragraph (2), and, where applicable paragraph (3), and
- (b) the remedial works plan submitted in accordance with paragraph (2)(g) in respect of the relevant dwelling concerned is consistent with the relevant remedial option recommended by the competent engineer in the engineer's report submitted in accordance with paragraph 2(a).

(8) A confirmation of grant approval shall -

- (a) be in writing,
- (b) set out the approved cost in respect of the application concerned, and
- (c) where a payment has been made under Regulation 8(11) in respect of the engineer's report 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 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.

(9) Where the relevant local authority has been notified under paragraph (2)(m)(ii), that a payment referred to in that paragraph has been made to the eligible applicant, the local authority shall -

- (a) where such payment is less than the amount of the approved cost concerned, set out in the confirmation of grant approval, 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 payment made to or for the benefit of the eligible applicant and, where applicable, less the amount of the fees connected with 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
- (b) where such payment is equal to or greater than the amount of the approved cost concerned, notify the eligible applicant that he or she may not seek payment for any amount under Regulation 10.

(10) The relevant local authority may, having considered an application made under this Regulation, decide not to issue a confirmation of grant approval to the eligible applicant, where the local authority is not satisfied of the matters referred to in paragraph (7).

(11) A decision under paragraph (10) shall be in writing and shall include reasons for the decision.

Payment of grant

10. (1) An eligible applicant who has received a confirmation of grant approval in respect of a relevant dwelling in accordance with Regulation 9 (in these Regulations referred to as a “scheme participant”) may apply to a relevant local authority for a payment under these Regulations at any time -

- (a) after the issuing by the local authority under Regulation 9 of the confirmation of grant approval in respect of the relevant dwelling concerned, and
- (b) not later than 12 months after the date on which certificate of remediation in respect of the dwelling is signed.

(2) Each application by a scheme participant under this Regulation shall be in such form as the Minister may specify and shall include the following:

- (a) proof, in such form as the Minister may specify, that the dwelling concerned is a relevant dwelling;
- (b) proof, in such form as the Minister may specify, that the scheme participant concerned is a relevant owner;
- (c) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the scheme participant 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;
- (d) a copy of the confirmation of grant approval concerned;
- (e) a declaration by the scheme participant, in such form as the Minister may specify -
 - (i) that no payment otherwise than under these Regulations has been made to or for the benefit of the scheme participant in respect of damage to the relevant dwelling arising out of or in connection with the use of defective concrete blocks in its construction, or
 - (ii) that such a payment has been made to or for the benefit of the scheme participant in respect of such damage and setting out the amount of the payment;
- (f) in the case of an application for payment of the total amount of grant or an application for payment of a final payment -
 - (i) the certificate of remediation in respect of the relevant dwelling concerned,
 - (ii) an invoice or invoices prepared by the contractor, detailing in an itemised manner, in respect of the elements of the qualifying works detailed in the programme of works carried out by the contractor concerned, the cost of each such element in respect of which the scheme participant is seeking payment, and
 - (iii) where the scheme participant is seeking payment in respect of the fees concerned:

- (I) an invoice prepared by the competent engineer who provided professional oversight of the qualifying works and who signed the certificate of remediation detailing in an itemised manner his or her fees for such oversight and for his or her role in the provision of that certificate;
 - (II) an invoice prepared by the competent engineer who provided the engineer's report detailing in an itemised manner the fees connected with the provision by him or her of such a report;
 - (III) an invoice prepared by the competent engineer who prepared the remedial works plan detailing in an itemised manner his or her fees for the preparation by him or her of such a plan;
- (g) in the case of an application other than an application for payment of the total amount of grant or an application for payment of a final payment -
- (i) where payment is sought for qualifying works other than payment for an engineer's report or a remedial works plan only, a written statement from the contractor and the competent engineer, by reference to the programme of works concerned, that the qualifying works to the relevant dwelling concerned for which a payment is being sought have been completed to his or her satisfaction and in accordance with the remedial works plan concerned,
 - (ii) an invoice or invoices prepared by the contractor, detailing in an itemised manner, the qualifying works carried out by the contractor concerned and the cost of each element of such works, if any, in respect of which the scheme participant is seeking payment, and
 - (iii) where the scheme participant is seeking payment in respect of the fees concerned:
 - (I) an invoice prepared by the competent engineer who provided professional oversight of the qualifying works detailing in an itemised manner his or her fees for such oversight;
 - (II) an invoice prepared by the competent engineer who provided the engineer's report detailing in an itemised manner the fees connected with the provision by him or her of such a report;
 - (III) an invoice prepared by the competent engineer who prepared the remedial works plan detailing in an itemised manner his or her fees for the preparation by him or her of such a plan;
- (h) where a payment has been made to a scheme participant in accordance with Regulation 8(11) towards the discharge of the

fees of the competent engineer connected with the provision of the engineer's report submitted to the relevant local authority in accordance with Regulation 8(2)(a), written confirmation, in such form as the Minister may specify, of the amount of the payment made;

- (i) where the scheme participant is seeking payment in respect of fees connected the provision of an engineer's report, the preparation of a remedial works plan or the provision of the certificate of remediation and professional oversight of the qualifying works concerned, such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the relevant person 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;
- (j) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to each contractor in respect of whose costs payment is sought 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;
- (k) such information as the relevant local authority may require to be satisfied that there are no outstanding amounts payable in respect of local property tax for the relevant dwelling concerned.

(3) The relevant local authority, in considering an application made under this Regulation, may -

- (a) request the scheme participant to clarify in writing any information submitted to it in respect of the application,
- (b) request the scheme participant to supply further documents or information in respect of the application, or
- (c) make such enquiries as it considers necessary for the purpose of assessing the application, including causing the relevant dwelling concerned to be inspected by a suitably qualified person authorised in that regard by the relevant local authority.

(4) Where a scheme participant becomes aware of any change in circumstances that affects his or her application for payment under this Regulation submitted to the relevant local authority, he or she shall, as soon as is reasonably practicable, notify the relevant local authority in writing of the change in circumstances.

(5) In considering an application under this Regulation, the relevant local authority shall also take into account -

- (a) additional documents or information obtained by the local authority in accordance with paragraph (3), if any, and
- (b) a change of circumstances notified to the local authority in accordance with paragraph (4), if any.

(6) Subject to Regulation 14, where a scheme participant makes an application for payment under this Regulation, the relevant local authority, having considered the application, may issue an approval of the application for payment to the scheme participant concerned in respect of the relevant dwelling concerned where the local authority is satisfied that -

- (a) the scheme participant has complied with the requirements set out in paragraph (2),
- (b) the qualifying works the subject of the application have been completed,
- (c) subject to paragraph (d), the payment to be made does not exceed 90% of the approved cost concerned or 90% of the actual cost of the qualifying works concerned, whichever is the lesser, and
- (d) in the case of an application other than an application for payment of the total amount or an application for payment of a final payment, that-
 - (i) the payment to be made does not exceed 75% of the approved cost, or
 - (ii) where a payment has, or payments have, previously been made under these Regulations in respect of the relevant dwelling concerned, that the cumulative amount of the payment or payments previously made and the payment to be made in respect of the instant application, does not exceed 75% of the approved cost.

(7) An approval of an application for payment under this Regulation shall be in writing and shall set out the amount approved by the relevant local authority concerned as payable to the scheme participant in accordance with these Regulations.

(8) Where a relevant owner makes a declaration to a relevant local authority in accordance with Regulation 8(2)(h), 9(2)(m) or 10(2)(e) that a payment otherwise than under these Regulations has been made to or for the benefit of the relevant owner concerned in respect of damage to the relevant dwelling concerned arising out of or in connection with the use of defective concrete blocks in its construction (in this paragraph referred to as a “non-scheme payment”), no payment shall be made to the relevant owner under these Regulations, unless the local authority is satisfied that the cost of the qualifying works done for which payment is sought under these Regulations exceeds the amount of any such non-scheme payment, and no payment shall be made under these Regulations other than in respect of the portion of the qualifying works the cost of which exceeds the amount of such non-scheme payment.

(9) Where a relevant local authority issues an approval for an application for payment under this Regulation, it shall make arrangements for the payment to the scheme participant concerned of the amount specified in that approval as soon as reasonably practicable after the issuing of that approval.

(10) The relevant local authority may, having considered an application made under this Regulation, decide not to approve the application for payment under this Regulation where the local authority is not satisfied of the matters referred to in paragraph (6).

(11) A decision under paragraph (10) shall be in writing and shall include reasons for the decision.

Refund of compensation

11. (1) Without prejudice to the generality of Regulations 8(2)(h), 9(2)(m) and 10(2)(e), where, in relation to a relevant dwelling in respect of which a confirmation of grant approval has been issued under Regulation 9 or in respect of which a payment has been made to an individual under these Regulations, a payment otherwise than under these Regulations is made to or for the benefit of the eligible applicant or individual concerned, as the case may be, in respect of damage to the dwelling arising out of or in connection with the use of defective concrete blocks in its construction, that eligible applicant or individual, as the case may be, shall give notice in writing to the relevant local authority of the payment and the amount thereof within 28 days of the making of that payment.

(2) On receipt of a notice under paragraph (1), where a payment has previously been made under these Regulations to the eligible applicant or individual concerned, as the case may be, the relevant local authority shall give notice in writing to the eligible applicant or individual concerned, as the case may be, of the total amount paid under these Regulations to the eligible applicant or individual, as the case may be.

(3) On receipt of the notice under paragraph (2), the eligible applicant or individual concerned, as the case may be, shall be immediately liable to pay to the relevant local authority the lesser of the following amounts:

- (a) the amount equal to the payment or payments made under these Regulations as set out in the notice referred to in paragraph (2),
or
- (b) the amount equal to the payment referred to in paragraph (1).

(4) If the eligible applicant or individual concerned, as the case may be, does not pay the amount referred to in paragraph (3) within 21 days of receipt of the notice referred to in paragraph (2), the relevant local authority is entitled to refuse to make any further payment under these Regulations in respect of the relevant dwelling concerned.

(5) Any amount not paid to the relevant local authority under paragraph (3) shall be recoverable by the local authority as a simple contract debt in a court of competent jurisdiction.

(6) The relevant local authority, as soon as may be after receiving or recovering a payment under this Regulation, shall pay the moneys received or recovered to the Minister.

Change of applicant

12. (1) Where an application under Regulation 8, 9 or 10 has been made by an individual in respect of a relevant dwelling, a relevant owner of the relevant dwelling, other than the relevant owner who made the application, may at any time before a decision is made by the relevant local authority in relation to the application, notify the relevant local authority that he or she wishes to be considered as the applicant, eligible applicant, or scheme participant, as the case may be, in respect of the application concerned.

- (2) A notification under paragraph (1) shall be in writing and shall include:
- (a) proof that the individual is a relevant owner of the relevant dwelling to which the application concerned relates;
 - (b) such information as the relevant local authority may require to verify that a tax clearance certificate has been issued to the individual 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;
 - (c) written consent by the individual, in such form as the Minister may specify, to the inspection of the relevant dwelling for the purposes of these Regulations by a suitably qualified person authorised in that regard by the relevant local authority, at such time or times as the relevant local authority may consider necessary;
 - (d) where the individual is a joint owner of the relevant dwelling, written consent, in such form as the Minister may specify, by each joint owner, other than the individual, to the individual being considered as the applicant, eligible applicant or scheme participant, as the case may be, in respect of the dwelling concerned in relation to an application made under Regulation 8, 9 or 10, as the case may be, and for the purposes of these Regulations generally;
 - (e) a declaration by the individual -
 - (i) that no payment otherwise than under these Regulations has been made to or for the benefit of the individual in respect of damage to the relevant dwelling arising out of or in connection with the use of defective concrete blocks in its construction, or
 - (ii) that such a payment has been made to or for the benefit of the individual in respect of such damage and setting out the amount of the payment;
 - (f) such information as the relevant local authority may require to be satisfied that there are no outstanding amounts payable in respect of local property tax for the relevant dwelling concerned.

(3) Where the relevant local authority is satisfied, in respect of a notification under paragraph (1), that the individual concerned has complied with the requirements set out in paragraph (2), the local authority may notify

the individual concerned in writing that he or she shall thereafter be deemed to be the applicant, eligible applicant or scheme participant, as the case may be, and, from the date of such notification, the person shall be deemed to be such applicant, eligible applicant or scheme participant, as the case may be, for the purposes of these Regulations.

Appeals

13. A relevant local authority shall provide an appeal in respect of a decision made by it under -

- (a) Regulation 8(9),
- (b) Regulation 9(10), and
- (c) Regulation 10(10),

to the applicant, eligible applicant or scheme participant concerned.

Amount payable under Regulations

14. (1) Subject to these Regulations, the total amount to be paid by a relevant local authority to an individual under these Regulations shall not exceed either -

- (a) in relation to qualifying works to the relevant dwelling concerned associated with a relevant remedial option set out in column (2) of the Schedule opposite a particular reference number set out in column (1) thereof, 90% of the maximum approved cost set out in column (4) of that Schedule opposite that particular reference number, or
- (b) 90% of the total actual cost of the qualifying works carried out to the relevant dwelling concerned,

whichever is the lesser.

(2) Subject to these Regulations, where a payment is sought under these Regulations other than a payment of the total amount of grant, the amount payable by a relevant local authority to the individual seeking the payment shall not exceed either –

- (a) 90% of the cost that the local authority is satisfied represents the reasonable cost of carrying out the qualifying works required for the relevant remedial option concerned in respect of which payment is sought, or
- (b) 90% of the total actual cost of such works,

whichever is the lesser.

(3) Where a payment has been made to an individual under these Regulations in respect of fees connected with the provision of an engineer's report in relation to a relevant dwelling, no payment shall be made to any person in respect of such fees for another engineer's report relating to the dwelling.

SCHEDULE

Reference number (1)	Remedial option (2)	Remedial option description (3)	Maximum Approved Cost (4)
1.	Option 1	Demolish entire dwelling to foundation level and rebuild.	€275,000
2.	Option 2	Demolish and rebuild external walls (both outer and inner leafs) down to foundation on a phased basis and re-render.	€220,000
3.	Option 3	Demolish and rebuild external walls (both outer and internal leafs) down to top of rising wall on a phased basis and re-render.	€210,000
4.	Option 4	Demolish and rebuild external walls (outer leaf only) down to top of rising wall on a phased basis and re-render.	€75,000
5.	Option 5	Demolish and rebuild outer leaf of affected walls only and re-render.	€55,000

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



GIVEN under the Official Seal of the Minister for Public Expenditure and Reform,
31 January, 2020.

PASCHAL DONOHOE,
Minister for Public Expenditure and Reform.



GIVEN under my Official Seal,
31 January, 2020.

EOGHAN MURPHY,
Minister for Housing, Planning And Local Government.

EXPLANATORY NOTE

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

The purpose for which these Regulations are made is to provide for a scheme of financial assistance to owners to carry out the necessary remedial works to dwellings that have been damaged due to defective concrete blocks further to the application of I.S. 465: 2018.

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