Final

General Scheme of a [Remediation of Dwellings Damaged by Defective Concrete Blocks Bill 2022]

20 May, 2022

Arrangement of Heads

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AN ACT TO PROVIDE FOR THE PAYMENT OF GRANTS FOR THE REMEDIATION OF DWELLINGS DAMAGED BY DEFECTIVE CONCRETE BLOCKS AND TO PROVIDE FOR RELATED MATTERS TO BE ENACTED BY THE OIREACHTAS AS FOLLOWS :

PART 1

PRELIMINARY AND GENERAL

Head 1: Short title and commencement

Provide along the following lines:

(1) This Act may be cited as the Dwellings Damaged by Defective Concrete Blocks Remediation Act 2022.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions

Explanatory Note:

This is a standard provision containing the title and commencement date. Subhead (2) is included on the assumption that not all provisions of the Act will not come into force on enactment.

Head 2: Interpretation

Provide along the following lines:

In this Act—

"Act of 2004" means the Residential Tenancies Act 2004;

"appeals board" means a 3 person board appointed by the chairperson of the appeal panel to hear an appeal(s) under head 23;

"appeals panel" means a 10 person panel appointed by the Minister to oversee the appeals process under head 21;

"applicant" in relation to an application made under this Act, means the relevant owner or joint owners of a dwelling to which this Act applies

"application" in relation to an application made to the relevant local authority, means an application in the prescribed form;

"building condition assessment" means a desk study and a dwelling inspection composed of a non-invasive external and internal visual inspection of a dwelling exhibiting damage consistent with defective concrete blocks carried out in accordance with the requirements set out in section 5 of I.S 465;

"building condition assessment report " means a report, in such form as may be prescribed by the Minister, prepared by a competent building professional following the completion of a building condition assessment in order to determine if the home is likely to have been damaged by defective concrete blocks as per I.S. 465;

"certificate of remediation", in relation to a relevant dwelling, means a certificate, in such form as may be prescribed by the Minister, signed by a contractor and a relevant building professional, as appropriate, certifying that, on a stated date on or before the date on which the certificate is signed, the works to the dwelling carried out and supervised by the contractor, and designed and inspected by the relevant building professional, as appropriate –

(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);

"confirmation of eligibility" means confirmation by a relevant local authority that a relevant owner has received confirmation of grant approval in respect of the relevant dwelling in accordance with regulation 8(8) of S.I. 25 of 2020;

"confirmation of grant approval" means confirmation by a relevant local authority that a relevant owner is eligible for the payment of a grant in respect of the relevant dwelling in accordance regulation 9(8) of S.I. 25 of 2020

"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 works to a relevant dwelling pursuant to a remedial works plan;

"damage threshold" means the prescribed minimum damage required to be present in a relevant dwelling arising out of the use of defective concrete blocks in its construction in order for a relevant dwelling to enter the defective concrete blocks grant scheme

"defective concrete blocks" means concrete blocks that contain excessive amounts of certain deleterious materials, namely free or unbound muscovite mica or reactive pyrite and such other deleterious material or combination of materials as may be identified in I.S. 465;

"defective concrete blocks grant scheme" means the grant scheme provided for under the Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations, 2020

"dwelling" includes a house or maisonette;

"engineer's report" means a report prepared by a competent engineer in accordance with I.S. 465 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 a recommendation by the competent engineer who prepared the report, the form of which may be prescribed by the Minister, of a remedial option in respect of the dwelling that represents the relevant remedial option;

"essential immediate repair works" means works identified in and recommended by a relevant building professional –

(a) in a building condition assessment report prepared in such form as may be prescribed by the Minister or

(*b*) in additional information supplied by a relevant building professional in an addendum to a building condition assessment report 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 in order to mitigate any safety concerns and

(c) approved by the Housing Agency or a relevant local authority under head 14(12) (iii)

"exempted development" has the meaning assigned to it in section 4 of the Planning and Development Act, 2000;

"household" means a person who lives alone or 2 or more persons who, in the opinion of the relevant local authority, have a reasonable requirement to live together;

" Housing Agency" means the Housing and Sustainable Communities Agency under Establishment Order, S.I. 264 of 2012 as amended;

"grant application" means an application made under head 10;

"I.S. 465" means Irish Standard 465:2018+ A1:2020; 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 to or replacement thereof;

"Letter of Assurance" means a letter issued by the relevant local authority in respect of a relevant dwelling on which remediation works, other than demolition and rebuild of the dwelling have been carried out and for which a Post Works Remedial Works Plan and a Certificate of Remediation has been received and validated by the local authority confirming its eligibility to be considered for and the conditions applicable to a second grant application;

"Minister" means the Minister for Housing, Local Government and Heritage;

'post works remedial works plan' in relation to a relevant dwelling, means a remedial works plan which has been updated by the competent engineer or competent architect during and after completion of the remediation works;

"prescribed" means prescribed by regulations made by the Minister under this

Act;

"principal private residence" means a house or maisonette which an individual owns and occupies as their only or main residence;

"relevant dwelling" has the meaning assigned to it by Head 9;

"relevant architect" means a person named on a register maintained by the Royal Institute of Architects of Ireland pursuant to Part 3 of the Building Control Act, 2007 who has the necessary direct professional experience and competence and has completed specialist training in the application of I.S. 465;

"relevant building professional" means a person named on a register maintained pursuant to Part 3 or Part 5 of the Building Control Act 2007 or Section 7 of the Institution

of Civil Engineers of Ireland (Charter Amendment) Act 1969 who has the necessary direct professional experience and competence and has completed specialist training in the application of I.S. 465;

"relevant building surveyor" means a person named on a register maintained pursuant to Part 5 of the Building Control Act 2007 who has the necessary direct professional experience and competence and has completed specialist training in the application of I.S. 465;

"relevant engineer" means a person named on a register maintained pursuant to Section 7 of the Institution of Civil Engineers of Ireland (Charter Amendment) Act 1969 who has the necessary direct professional experience and competence and has completed specialist training in the application of I.S. 465;

"relevant local authority" means, in relation to a relevant dwelling, the local authority

in the administrative area of which the dwelling is located;

"relevant owner" has the meaning assigned to it by Head 9;

"relevant remedial option", in relation to a relevant dwelling, means the remediation option determined by the Housing Agency as being the appropriate 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 work 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, which is prepared by a competent engineer;

"rented dwelling" means a dwelling in respect of which a tenancy was registered with the Residential Tenancies Board on the 1 November, 2021

"satisfied" means satisfied on reasonable grounds;

"second grant application" means an application made under head 19

"unauthorised structure" means a structure other than—

(a) a structure which was in existence on 1 October 1964, or

(b) a structure, the construction, erection or making of which was the subject of a permission for development granted under Part IV of the Planning and Development Act of 1963 or deemed to be such under section 92 of that Act or under section 34 of the Planning and Development Act, 2000, being a permission which has not been revoked, or which exists as a result of the carrying out of exempted development (within the meaning of section 4 of the Act of 1963 or section 4 of the Act);

Explanatory Note : This Head defines key words and terms used in this Act.

Head 3 Regulations

Provide along the following lines:

(1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.

(2) Regulations made under this Act may include such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of these regulations.

(3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done by the regulation.

Explanatory Note: This is a standard provision in regard to Ministerial powers to make regulations.

Head 4 Expenses

Provide along the following lines:

Any expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

Explanatory Note: This is a standard provision in regard to the cost of the administration of the Act.

Head 5: Designation of Local Authorities

Provide along the following lines:

(1) The Minister may, by Government Order, designate relevant local authorities to discharge on behalf of the Minister the function of paying grants under the provisions of this Act.

Explanatory note:

Only Donegal and Mayo are covered by the current scheme (S.I.25/2020). Clare and Limerick are, following receipt of submissions from the respective local authorities which provide the necessary evidence of the impact of defective concrete blocks on homes in their functional areas, now recommended for inclusion under the enhanced scheme.

Sligo County Council will be seeking admission to the scheme and are currently preparing a submission in this regard.

The Minister will make regulations adding additional counties to the scheme, as required, consequent upon a Government order in that regard.

Head 6 Designation of Specified Areas

Provide along the following lines:

(1) The Minister may by regulation, subject to Head 5(1), designate the entire or specific geographic regions of a local authority area where relevant dwellings are located.

(2) The Minister shall not make regulations under *subsection (1)* except after consideration of a recommendation by the Housing Agency to him or her for the designation of the entire or a specified geographic region of a local authority area.

(3) *subsection (2)* shall not apply to relevant local authorities already prescribed under S.I. 25 of 2020

(4) The Housing Agency shall consider a request made to it by the Minister to determine if relevant dwellings are located in the entire or specific geographic regions of a local authority area.

(5) Where a request under *subsection (4)* is made to the Housing Agency, the Housing Agency shall, where required, carry out the testing of dwellings in the local authority area in accordance with I.S.465.

(6) The Housing Agency shall, as soon as practicable after completing the testing, if any, set out in *subsection (5)* , submit its recommendation to the Minister as to whether relevant dwellings under this Act, are located in specific geographic regions of the local authority area.

(7) The Minister may by regulation set out the requirements to be complied with by local authorities and the Housing Agency in respect of any request to designate the entire or specific geographic regions of a local authority area for inclusion under this Act

Explanatory Note:
New provisions to allow the Minister to prescribe either the whole or specific geographic parts of a local authority area for the purposes of this grant scheme. The Housing Agency will be given the function of testing dwellings in local authority areas, using the protocols set out in IS 465, where it is suspected that defective concrete blocks which have been damaged in accordance with I.S.:465 may be present. The Housing Agency will submit findings and recommendations on the matter to the Minister who will make the necessary regulations.

Head 7 Advances to and Expenditure by Local Authorities

Provide along the following lines:

(1)The Minister, in each financial year, may make a grant to the relevant local authorities, of such amount as may be sanctioned by the Minister for Public Expenditure and Reform, out of moneys provided by the Oireachtas, for implementing the provisions of this Act, and matters ancillary to its implementation.

(2) The relevant local authority shall submit budgets for its expenditure under this Act to the Minister for approval.

(3) The budgets referred to in *subsection (2)* shall be submitted prior to the period to which they relate and no such period shall exceed one year.

(4) The Minister may, in respect of each budget submitted to it under this section, either approve of such a budget without modification or approve of the budget with such modifications as it thinks fit to make.

(5) The Minister may by regulation set out the reporting requirements to be complied with by local authorities in respect of this section

Explanatory note:
Local authorities will be required to submit financial reports to the Minister by September each year on expected expenditure under the scheme for the following financial year (Jan-Dec). The local authorities will also submit monthly financial reports on grants paid out under the scheme to relevant homeowners and costs incurred on administration of the scheme. When the Minister is satisfied with the reports submitted the local authorities will be recouped their costs.

Head 8 Advances to and Expenditure by the Housing Agency

Provide along the following lines:

(1)The Minister, in each financial year, may make to the Housing Agency a grant, of such amount as may be sanctioned by the Minister for Public Expenditure and Reform out of moneys provided by the Oireachtas, for the purposes of implementing their functions under this Act, and matters ancillary to its implementation.

(2) The Housing Agency shall submit annual budgets for its expenditure under this Act to the Minister for approval.

(3) The budgets referred to in subsection (1) shall be submitted prior to the period to which they relate and no such period shall exceed one year.

(4) The Minister may, in respect of each budget submitted to it under this section, either approve of such a budget without modification or approve of the budget with such modifications as it thinks fit to make.

(5) The Minister may by regulation set out the reporting requirements to be complied with by the Housing Agency in respect of this section

Explanatory Note:

The Housing Agency will be required to submit financial reports to the Minister by September each year on expected expenditure under the scheme for the following financial year (Jan-Dec). The Housing Agency will also submit monthly financial reports on costs incurred on the engagement of competent building professionals, the testing of homes under I.S.465 and on administration of the scheme. When the Minister is satisfied with the reports submitted the Housing Agency will be recouped their costs.

PART 2
DEFECTIVE CONCRETE BLOCKS GRANT SCHEME

Head 9: Definitions and Consequential Matters

Provide along the following lines:

"relevant dwelling"

(a) means a dwelling -

(i) that is located in a prescribed administrative area or geographic region of a relevant local authority,

(ii) the construction of which was completed prior to the 31 January, 2020

(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,

(vi) that is not an unauthorised structure

or

(vii) to which a letter of assurance attaches

(b) does not include -

(i) a building or part of a building that is not permanently attached to a dwelling or that is an unauthorised structure,

(ii) a garage, car park, garden, patio or other area or part of a structure, whether permanently attached to the dwelling or not, which is not used for human habitation, unless the Housing Agency is satisfied that failure to include the area or structure concerned may result in ongoing damage to a dwelling which has met the damage threshold for entry to the scheme or

(iii) a building that provides multi-occupancy accommodation, under specific conditions, including, but not limited to, a nursing home, a boarding school, a hotel or a hostel.

"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" means, in relation to a relevant dwelling, an individual who owns the dwelling, whether jointly or not, where -

(a) he or she -

i became an owner of the dwelling prior to 31 January 2020,

ii inherited the dwelling on or after the 31 January 2020 or

iii subject to paragraph (2), purchases the dwelling on or after the date of the coming into operation of this Act,

(b) the dwelling is the individual's principal private residence, or

(c) the dwelling is a rented dwelling or

(d) he or she holds a 'Letter of Assurance' attached to a relevant dwelling

(2) Where a person purchases a dwelling on or after the 31 January 2020, other than a dwelling to which a letter of assurance is attached, he or she shall not be a relevant owner for the purposes of this Act, 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.

Explanatory Note:

This head defines 'relevant dwelling' and 'relevant owner' for the purposes of this Act. In order be eligible to apply for grant assistance a dwelling must be a 'relevant dwelling' and an owner must be a 'relevant owner'.

The Department's policy is that the enhanced scheme will only apply to two classes of owners. The first is an owner of a home which must be their principal private residence to be eligible and the second is the owner of a residence which is rented and the tenancy was registered with the Residential Tenancies Board on the 1st November, 2021. There is a limit of one rental property and one principal private residence per relevant owner and household. A clawback provision applies in respect of rental properties the detail of which is contained in Head 20. The definition of 'relevant owner' and 'relevant dwelling' also includes for owners and dwellings to which a Letter of Assurance attaches (that is a second grant application option under head 19)

Ordinarily homes purchased on or after the 31 January, 2020 would not be eligible to apply for grant assistance. Provision has been made to provide for persons purchasing a dwelling impacted by defective concrete blocks after that date to be eligible to apply for grant assistance in specific and limited circumstances. Provision has also been made for those who may inherit a home impacted by defective concrete blocks after that date to be eligible to apply for grant assistance in specific and limited circumstances.

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Head 10: Application for Grant Approval to the Local Authority

Provide along the following lines:

(1) a relevant owner may make a grant application in the prescribed form to a relevant local authority for a grant to undertake remedial works to a relevant dwelling.

(2) a relevant owner or a household shall be limited to a maximum of one application in respect of a principal private residence which is a relevant dwelling and one application in respect of a rented dwelling

(3) a grant application shall include a building condition assessment report, prepared by a competent building professional, in relation to a relevant dwelling.

(4) Without prejudice to *subsection (1)* a grant application shall be in writing in the form, which may include electronic form, by affidavit, or otherwise as specified by the Minister.

(5) The Minister shall, in exercising his or her power under subsection (4) prescribe the requirements in respect of an application which shall include -

(a) the application form and building condition assessment report and such other documents as are required including:

i proof of the identity of the applicant

ii proof that the applicant is a relevant owner of a relevant dwelling,

iii proof that the relevant owner is occupying the relevant dwelling as their principal private residence

iv in the case of relevant dwellings which are jointly owned, confirmation and evidence of the consent of joint owners, who are not applicants to the scheme, to the application being made and being bound as joint owners by the conditions applying to any grant approved for the relevant dwelling

v confirmation with supporting evidence in respect of all applications made by the applicant under the scheme

vi confirmation with supporting evidence of any compensation or payment received by a relevant owner in respect of damage to a relevant dwelling or any part of it arising from the use of defective concrete blocks in its construction otherwise than under the provisions of this Act

vii in respect of a rented dwelling proof that a tenancy in the relevant dwelling was registered with the RTB on the 1st November, 2021

viii such information as required to ensure that there are no outstanding amounts payable in respect of local property tax for the relevant dwelling

ix such information as required of any and all planning permission(s) granted, for the relevant dwelling.

x applicants consent to the relevant local authority, its servants or agents, to enter or otherwise access the relevant dwelling so as to perform its functions under this Act

xi applicant's irrevocable consent to the Housing Agency, its servants or agents, to enter or otherwise access the relevant dwelling in order to carry out assessments and testing, including extracting samples from the blockwork as it considers is required so as to perform its functions under this Act.

xii details of every claim which a relevant owner may have or had against others arising from the use of defective concrete blocks in the construction of the relevant dwelling

xiii a statutory declaration in respect of the veracity of the information provided

(6)The relevant local authority, in considering the validity of an application made under this section, 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 an authorised person authorised in that regard by the relevant local authority.

(7) The local authority may refuse to consider or further consider an application under this section if the applicant fails to provide the local authority with such information as may be requested within 28 days from the date of the request.

(8) Where an applicant becomes aware of any change in circumstances that affects his or her application under this Act, he or she shall, as soon as may be, notify the relevant local authority in writing of the change in circumstances.

(9) In considering the validity of an application under this subsection, the relevant local authority shall also take into account -

i. whether the applicant is a relevant owner under the Act,
ii. whether the application is made in respect of a relevant dwelling
iii. whether the relevant owner has given consent under 4(a)(ix and x)
iv. what other applications, if any, the relevant owner has made under the scheme

(10)The relevant local authority, having considered an application made under this section, shall either-

(a) validate the application and refer the application to the Housing

Agency as soon as possible thereafter, or

(b) refuse the application and

notify the applicant of its decision as soon as possible thereafter.

(11) First time applications for grant approval under this section shall be made no later than 15 years from the date of commencement of this section of the Act.

Explanatory note:

Applications will be made by homeowners to the relevant local authority and will have to be accompanied by a building condition assessment report prepared by a competent building professional, a completed application form and statutory declaration, consent to inspection and testing of the relevant dwelling and such other information as may be requested by the local authority.

The local authority will carry out a validation of the application considering issues as to whether the home is a relevant dwelling and the owner a relevant owner under the definitions in the Act. They will also ensure that all reports required to make the assessment have been submitted and the application form is fully complete.

If the application is validated by the local authority it will then be submitted to the Housing Agency for them to assess the merits of the application. If the application is not validated the local authority will refuse it. The homeowner must be notified of the local authorities' decision as soon as possible.

A relevant owner and a household can only apply for one principal private residence and one rental property under the scheme. The Minister shall make regulations governing the application and assessment process and the forms to be prescribed for that purpose

A first time application under the grant scheme will have to be made within 15 years following the date of commencement of this section of the Act.

Head 11- Refusal of a Relevant Local Authority to Consider an Application

Provide along the following lines:

(1) Where the local authority is not satisfied that an application made to it under this Part is complete or has not been correctly completed, notwithstanding requests made under *section 10(5)*, it may refuse to consider the application further and give notice in writing to the applicant and state the reasons for such refusal in the notice.

(2) The reference in *subsection (1)* to the local authority not being satisfied that an application made to it under this Part has been correctly completed includes a reference to the local authority not being satisfied as to the identity of the applicant or other person named in the application.

(3) Where an applicant furnishes information to the local authority under this Act, as part of a grant application, which they know to be false and misleading or being reckless as to whether it is false or misleading, the local authority will refuse to consider further the application and the applicant will be disqualified from making a further grant application under this Act for a period of 5 years.

(4) An applicant who furnishes information to the local authority under this Act, which is false and misleading knowing it to be false or misleading or being reckless as to whether it is false or misleading is guilty of an offence.

(5) A person who is guilty of an offence under this section is liable-

(a) On summary conviction to a class A fine, or imprisonment for a term not exceeding 12months or both,

(b) On conviction on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

(6) Notwithstanding anything else contained in this Act or in Regulations made under it, a person is disqualified from applying for a grant following the person's being convicted of an offence under this Act.

Explanatory Note:

Where the local authority is not satisfied that the application form is filled in correctly or is incomplete or is unable to get additional information or documentation sought it may refuse to consider the application further.

In addition, an offence provision is included where an applicant submits information to the local authority knowing it to be false or misleading or being reckless as to whether it is false or misleading. Any such offence may attract a fine or imprisonment or both and disqualification from access to the grant scheme.

Head 12 Assessment of Applications by the Housing Agency

Provide along the following lines:

(1) On receipt of an application under head 10(9) the Housing Agency shall review the application and carry out all reasonable enquiries as it considers necessary, in order to establish if the application meets the criteria for grant assessment including seeking additional information or clarifications from the relevant local authority

(2) the Minister shall prescribe –

a. the minimum damage threshold required to a relevant dwelling arising from the use of defective concrete blocks in its construction for entry to the scheme and

b. criteria for the prioritisation of applications by the Housing Agency

c. the manner and standard of assessment to be conducted by the Housing Agency on applications referred to it by a relevant local authority

(3) Upon receipt of a validated application from a relevant local authority the Housing Agency shall

(a) determine if the application has met the damage threshold for entry to the scheme

(b) prioritise applications which have met the damage threshold

(c) arrange for the testing of homes, as required, in accordance with the prescribed standard under subsection (2)(c) ,

(d) prepare an engineers report on each dwelling tested in accordance with the prescribed standard under subsection (2)(c)

(e) determine the relevant remediation option for each application having regard to the report and recommendation of a relevant engineer

(f) determine the maximum grant amount payable in respect of the relevant remediation option on each application in accordance with head 14 and

(g) notify the local authority of its determinations under (a), (e) & (f) as soon as possible following the determination

Explanatory Note:
On receipt of a valid application from the local authority, the Housing Agency will consider the building condition assessment report and any visual inspection carried out and determine if a home the subject of an application has met the damage threshold for entry to the grant scheme. The damage threshold will be prescribed by the Minister having taken into consideration the advice of the Expert Group.

The details of the assessment to be carried out by the Housing Agency will be set out in regulations. If the Housing Agency determination is that the damage threshold is not met the relevant owner can appeal the decision.

If the Housing Agency determination is that the damage threshold has been met the Agency will prioritise dwellings for testing in accordance with the I.S.465 standard. The prioritisation criteria for testing to be prescribed by the Minister will assist with ensuring as far as possible that the worst affected homes are dealt with as a priority.

Where the minimum damage threshold is met and the home prioritised for testing, a competent engineer will be engaged by the Housing Agency from a panel of engineers suitably qualified to undertake the assessments. They will assess and carry out tests on the dwelling to assist them in assessing the damage and determining the appropriate remediation option for that home.

The Housing Agency will not be required to test a home in accordance with the I.S. 465 protocol if it is satisfied that the result of tests from other dwellings in the same development can be applied and enable it to determine the relevant remediation option for the dwelling under consideration (e.g. the second home in a semi-detached block or a dwelling in a terrace).

The grant amount will be determined by the Housing Agency based on the grant calculation methodology and rates that are provided for in head 14.

Head 13 Powers of the Housing Agency

Provide along the following lines:

(1) The Housing Agency shall have all such powers as are reasonably necessary or expedient for the performance of its functions under this Act.

(2) Without prejudice to the generality of *subsection (1)* the Housing Agency may

-

(a) Request a relevant local authority to review or submit additional information in respect of any application referred to it under head 10 (9),
(b) Engage competent building professionals as it considers necessary for the performance of its functions under this Act and
(c) Remunerate competent building professionals who have been engaged by it under *paragraph (a).*

(3) The Housing agency shall, through its authorised officers, servants or agents, where a grant application is made, have the power to enter a relevant dwelling and make such enquires and undertake such surveys or take such samples as it considers necessary in order to carry out its functions under this Act

Explanatory Note:

This Head provides the Housing Agency with general and specific powers to undertake their functions under the Act.

Head 14 Financial Limits of Grants for Relevant Dwellings

Provide along the following lines:

(1) The overall maximum grant payable to a relevant owner of a relevant dwelling shall not exceed €420,000 or 100% of the costs in accordance with subsections (3) to (15) or the actual cost, whichever is the lesser

(2) The grant calculation methodology for *subsection (1)*, where the relevant remedial option is the demolition of the entire dwelling to foundation level and rebuild on existing foundations, shall be based on a prescribed cost per square metre of rebuilding a relevant dwelling

(3) the maximum grant for the relevant remedial option in *subsection (2)* shall be calculated using the following formula: A x B = C

Where-
A is the size of the relevant dwelling
B is the cost per square metre rate prescribed
C is the maximum grant amount

(4) The grant calculation methodology for *subsection (1),* where the relevant remedial option is the removal and replacement of damaged blockwork contained in the outer and inner leafs of the external walls down to foundation level, shall be based on a prescribed cost per square metre for the removal and replacement of such damaged blockwork and associated works in a relevant dwelling

(5) the maximum grant for the relevant remediation option in *subsection (4)* shall be calculated using the following formula: D x E = F
Where-
D is the square metres of block work to be removed and replaced in the relevant dwelling
E is the cost per square metre rate prescribed
F is the maximum grant amount

(6) The grant calculation methodology for *subsection (1),* where the relevant remedial option is the removal and replacement of damaged blockwork contained in the outer and inner leafs of the external walls down to the top of the rising wall, shall be based on a prescribed cost per square metre for the removal and replacement of such damaged blockwork and associated works in a relevant dwelling

(7) the maximum grant for the relevant remediation option in *subsection (6)* shall be calculated using the following formula: G x H = I
Where-

G is the square metres of block work to be removed and replaced in the relevant dwelling
H is the cost per square metre rate prescribed
I is the maximum grant amount

(8) The grant calculation methodology for *subsection (1),* where the relevant remedial option is the removal and replacement of damaged blockwork contained in the outer leaf only of the external walls down to the top of the rising wall, shall be based on a prescribed cost per square metre for the removal and replacement of such damaged blockwork and associated works in a relevant dwelling

(9) the maximum grant for the relevant remediation option in *subsection (8)* shall be calculated using the following formula: J x K = L
Where-
J is the square metres of block work to be removed and replaced in the relevant dwelling
K is the cost per square metre prescribed
L is the maximum grant amount

(10) The grant calculation methodology for *subsection (1),* where the relevant remedial option is the removal and replacement of damaged blockwork contained in the outer leaf of affected walls only, down to the top of the rising wall, shall be based on a prescribed cost per square metre for the removal and replacement of such damaged blockwork and associated works in a relevant dwelling

(11) the maximum grant for the relevant remediation option in *subsection (10)* shall be calculated using the following formula: M x N = P
Where-
M is the square metres of block work to be removed and replaced in the relevant dwelling
N is the cost per square metre rate prescribed
O is the maximum grant amount

(12) *subject to subsection(1)* In addition to the maximum grant for the relevant remediation option, as appropriate, under *subsections* (3), (5), (7), (9) or (11) or any combination of these *subsections*, an additional grant of up to

(i) €15,000 or 100% of the actual costs, whichever is the lesser, shall be available to relevant owners for alternative accommodation costs,

(ii) €5,000 or 100% of the actual costs, whichever is the lesser, for storage costs incurred during the execution of remediation works and

(iii) €5,000, or 100% of the actual costs, whichever is the lesser, for essential immediate repair works carried out by the relevant owner on foot of a recommendation by a competent building professional as part of a building condition assessment

(13) Notwithstanding the provisions of *subsection (5)* the maximum grant available for a relevant dwelling for remediation works under subsection (4) shall not exceed 90% of the maximum grant which could be awarded under subsection (3) for the relevant dwelling

(14) Notwithstanding the provisions of *subsection (7)* the maximum grant available for a relevant dwelling for remediation works under subsection (6) shall not exceed 85% of the maximum grant which could be awarded under subsection (3) for the relevant dwelling

(15) Where a relevant owner has received compensation or payment in accordance with section 10(5)(a)(v), otherwise than under the provisions of this Act, the amount of any such payment will be subtracted by the local authority from the overall maximum grant amount awarded

(16) Subject to *subsection (18)*, the Minister, out of such monies are available to him or her by monies provided by the Oireachtas and with the consent of the Minister for Public Expenditure and reform, may, from time to time

i by Government Order, revise the maximum overall grant payable under subsection (1)

ii the prescribed rates under *subsections (*3), (5), (7), (9) and (11) and

iii the figures set out under *subsection* (12)

(17) The Minister shall not make an order under *subsection (16)* earlier than—

(a) in the case of the first such order, 12 months after the commencement of this section, or

(b) in the case of a second or subsequent such orders, 12 months after the previous order made under this *subsection*

(18) When making an order under *subsections (16) or (17)*, the Minister shall have regard to

(a) up to date construction costs,
(b) increases in rental costs as notified by the Residential Tenancies Board,
(c) the Consumer Price index and
(d) arrange for such reports or expert advice as may be necessary to inform any such order

(19) Where the Minister makes an order under *subsections (16) or (17)* the grant increase shall not exceed a rate higher than 10% per cent of

i the figure set out in *subsection (1) or*

ii the rates prescribed under *subsections (3), (5), (7), (9) and (11)*

iii the figures set out in *subsection* (12)

(20) The maximum grant cap set out in *subsection (1)* and the grant rates to be prescribed under *subsections (3), (5), (7), (9) and (11)* and the figures set out in *subsection (12)* include value added tax

(21) Subject to *subsection (22)*, a maximum of 3 orders may be made under *subsection (12)* from the date of coming into operation of this section

(22) The maximum number of orders referred to in *subsection (21)* may be extended where each House of the Oireachtas passes a resolution to that effect, for such further number of orders as may be specified in the resolution, which number shall not exceed 3

(23) The Minister may by regulation set out the requirements to be complied with by local authorities and the Housing Agency in respect of the assessment and calculation of grant amounts

Explanatory Notes

The current scheme has 5 distinct remediation options which are taken from I.S. 465 standard. The standard also allow for blended options. This head sets out the overall grant calculation methodology and rates which apply for each remediation option.

The grant available to homeowners will be based on construction cost rates per sq.mt and the size of the existing home in the case of demolition and rebuild and construction cost rates for blockwork removal and replacement and the amount of blockwork being replaced in the home in the case of other remediation options.

The highest order remediation option is Option 1 which involves demolition of the home down to foundation level and rebuild. The grant calculation methodology is based on a cost per square metre for the rebuild of home based on the existing home size.

Remediation Options 2 -5 involve the removal and replacement of defective and damaged blockwork. The grant calculation methodology is based on a cost per square metre of blockwork to be removed and replaced.

Within the overall maximum grant cap of €420,000, grant funding is also available for alternative accommodation costs (up €15,000), storage costs (up to €5,000) and essential immediate repair works (up to €5,000) or 100% of the actual cost, whichever is the lesser.

The I.S. 465 standard is under review and the number and type of remediation options could change in the future. The Minister will prescribe the grant rates.

The Minister may, by Government order, revise the overall maximum grant amount of €420,000 and the grant rates not more than once every 12 months. The Minister can make three such orders after which a resolution of the Oireachtas will be required for the making a maximum of three further orders.

There is no residential construction cost index suitable for use for this purpose and reports may have to be commissioned annually. Advices from the Residential Tenancies Board will inform any increase in the cap for alternative accommodation costs. The CPI will inform any changes in the cap for storage costs.

The maximum overall increase which can be applied by the Minister in any single order is 10%.

Head 15 Notification to Applicants of Grant Approval

Provide along the following lines:

(1) The relevant local authority shall notify the applicant as soon as possible after receipt of the Housing Agency's determination under *sections (12)(3)(a)* of their decision in respect of

(i) the relevant dwelling having met the damage threshold for entry to the scheme or

(ii) the relevant dwelling having failed to meet the damage threshold and being refused entry to the scheme

(2) The relevant local authority shall notify the applicant as soon as possible after receipt of the Housing Agency's determination under *section (12)(3)(e) and (f)* of the decision of the agency and -

(i) issue a grant approval or

(ii) refuse the application.

(3) A notification under *subsection (1)* (ii) shall include reasons for the decision

(4) A notification under *subsection (2) (i)*shall include;

(a) the remediation option approved,

(b) the overall maximum grant amount payable which shall include

a. the grant amount determined by the Housing Agency for the relevant remedial option in accordance with *sections 14(3), 14(5), 14(7), 14(9) or 14(11) and*

b. the maximum grant amount available under section 14(12)

(c) the conditions attached to the approval which shall include;

(i) a requirement on the relevant owner to prepare and submit a remedial works plan for the remediation works being carried out which must not be less than those approved under *subsection (4)(a)*

(ii) a requirement to submit tax clearance certificates for the relevant owner, the relevant building professional, and the contractor

(iii) a requirement on the relevant owner to confirm if alternative accommodation, storage costs or essential immediate repair works

will be incurred by the relevant owner during the execution of the remediation works and the likely cost

(iv) a requirement to submit documentary evidence of expenditure in support of grant payments

(v) a requirement to comply with the prescribed process for claiming grant instalments which shall include interim valuation certificates from the relevant building professional and documentary evidence of expenditure incurred

(vi) a requirement on the relevant owner to secure planning permission for the work, if required

(vii) a requirement to notify the local authority when work commences

(viii) the time limits applicable to the grant approval

(ix) a requirement for the local authority to proportionally reduce the overall grant amount approved where the relevant dwelling is being demolished and rebuilt to a size smaller than that for which the grant amount was calculated in accordance with section 14(3)

(x) a requirement on the relevant owner, on completion of the remediation works to submit a post works remedial works plan and a certificate of remediation for the remediation works carried out and

(xi) such other requirements as may be prescribed by the Minister

(5) where the applicant receives a notification under *subsection (4)* he or she may undertake works in excess of those approved but

i. the cost differential between the overall maximum grant amount approved and the costs of any extra works being undertaken must be borne by the relevant owner and

ii. the existing foundations must be retained in situ and used as part of the remediation work being carried out regardless of what remediation option has been approved

(6) Failure to comply with the provisions of subsection (5) (ii) will be considered a breach of the conditions of grant approval and prohibit a relevant local authority from making grant payments in accordance with Head 18

(7) The Minister shall by regulation prescribe the format of a remedial works plan, interim valuation certificates, a certificate of remediation and a post works remedial works plan and set out the requirements to be complied with by applicants , local authorities and the Housing Agency in respect of any matters under this section

Explanatory note:

Applicants will be notified by local authorities of the outcome of their application in regard to a relevant dwelling. Local authorities will notify the applicant of their decision to either approve or refuse the application. The local authority notification shall not deviate for the Housing Agency determination. If an application is refused, an applicant must be informed of the reasons for the refusal and they have the option to appeal the decision to the Appeals board.

The homeowner may proceed with the remediation option approved by the local authority but they may also undertake additional works. For example, they may be approved for grant assistance to demolish and rebuild external walls down to the foundation but they decide they wish to demolish the entire building and rebuild. The homeowner would have to fund the difference between the grant approved and the cost of any additional works. The homeowner will not be grant aided where works carried out are less than those approved or are not carried out on the existing foundations.

Where applicants have been approved for demolition to foundation level and rebuild a smaller home than that on which the grant amount was determined the local authority shall proportionally reduce the grant amount approved. The requirements in this regard will be prescribed by the Minister.

The main conditions of grant approval are provided for but the Minister may also make regulations in this regard.

Head 16 Time Limits on Grant Approvals

Provide along the following lines:

(1) Where a relevant owner has been approved for the payment of a grant under section 15 *(2)*, the approval shall, unless remediation works have commenced, expire after a period of 18 months from the date of notification of the grant approval or if the decision under section 15 (2) is appealed, 18 months from the date of notification of the outcome of the appeal

(2) Where, because of exceptional circumstances beyond the control of the applicant, it is not possible for the relevant owner to commence the remediation works approved within the time limits referred to in *subsection (1)* an application can be made in writing to the local authority to -

(a) request an extension to the time period to commence the remediation work and outline and support with evidence the reasons for the delay,
(b) an application for extension under *paragraph (a)* shall be made within a period of not less than 3 months before the expiration of the 18 month period under *subsection (1)*
(c) the application for extension shall be considered by the local authority and additional information may be sought in support of the application

(d) a decision on the application shall be made and communicated to the applicant as soon as practicable by the local authority

(e) the maximum period of extension which can be granted by the local authority is 3 months

(3) a refusal of any extension request can be appealed to the relevant local authority and the Minister shall prescribe the content and format of any such appeals

(4) the Minister shall make regulations in respect of the exceptional circumstances acceptable for an extension of the applicable time limits

Explanatory Notes:
In terms of overall scheme governance and oversight of the financial liability accruing for the Exchequer, it is considered important that grant approvals would not be open ended. Approvals which have not been acted upon need, within reason, to be withdrawn and timelines have therefore been set.
An applicant has 18 months to commence works after approval before the grant approval is deemed withdrawn. A further period of 3 months may be granted by the local authority where exceptional circumstances beyond the control of the applicant arise.

Head 17 Change of Grant Approval

Provide along the following lines:

(1) Where the grant approved under *section 12* is for the remediation of an affected dwelling , otherwise than to demolish and rebuild, the relevant owner may, after remediation works have commenced, apply to the relevant local authority to vary the remediation option approved where –

(a) There has been, since the date of the approval of the remediation option and after works have commenced, an unforeseen and material deterioration in the condition of the blocks which were to be retained in the relevant dwelling

(b) The deterioration in paragraph (a) was identified by the relevant owners relevant engineer,

(c) the relevant engineer submits a report, with supporting evidence, to the relevant local authority that the remediation option approved under section 12 is no longer the appropriate remediation option

(2) The local authority shall refer any such application to the Housing Agency for a determination on the application for a change of grant approval

(3) The local authority shall, if that is the determination of the Housing Agency, issue a revised grant approval but any such revised approval cannot extend to demolition and rebuild of the relevant dwelling

(4) The Minister shall make regulations providing for the process and requirements for an application for a change of grant approval and the matters to which the Housing Agency shall have regard to in its determination.

(5) The local authority may issue a revised grant approval, providing for a change of name of the relevant owner approved for grant assistance under the provisions of this Act, where ownership of the relevant dwelling has changed hands arising from inheritance

(6) The provisions of head 16(1) and head 18(5) shall be relaxed in respect of a change of name of the relevant owner approved for grant assistance under *subsection (5)*

(7) The Minister shall make regulations providing for the process and requirements under *subsections (5) and (6)*

Explanatory Note:

This head makes provision for a change of grant approval. Where following commencement of works the Housing Agency agrees with the findings of a report submitted by the homeowners relevant engineer, that arising from damage to blockwork having manifested in blockwork originally proposed to be retained, an alternative remediation option should be approved.

The condition of the dwelling could change given the time lag to works commencement which could be up to 21 months after the grant approval. Any such revised remediation option approved cannot extend to Option 1 remediation works.

The head also makes provision for a change of name of the approved applicant in the case of inheritance and relaxes the timelines for commencement and completion of the remediation works to facilitate the time any such change would take.

Head 18 Payment of Grant

Provide along the following lines:

(1) Where a relevant owner has been approved for the payment of a grant under *section 15*, the grant may, subject to the conditions that may be specified under *section (15) (4) (c)*, be paid to the applicant.

(2) Grant payments shall be

a. applied for by the applicant to the local authority and
b. made by the local authority to the relevant owner

(3) Regulations made under subsection (2) shall include a requirement for the applicant to submit –

(a) interim valuation certificates from the relevant building professional,
(b) documentary evidence of expenditure incurred
(c) confirmation and evidence of compliance with the conditions of grant approval under *subsection 15(4)*

(4) Without prejudice to *subsection (1)* the final grant payment is subject to the local authority receiving-

(i) a post works remedial works plan and
(ii) a certificate of remediation for works carried out on the relevant dwelling.

(5) The final date for receipt of a payment request from the applicant by the local authority of a grant approved under section 15 (1), shall be 15 months from the date of commencement of the remediation works

(6) Where, because of exceptional circumstances beyond the applicants control, it is not possible for the applicant to apply for the full grant approved within the time limits referred to in *subsection (5)* an application can be made in writing to the local authority to -

(i) request an extension to the time period to complete the remediation work and draw down of the grant outlining the reasons for the delay,

(ii) application for extension under *paragraph (a)* shall be made within a period of not less than 3 months before the expiration of the 15 month period under *subsection (5)*

(iii) the application for extension shall be considered by the local authority and additional information may be sought in support of the application

a. a decision on the application shall be made and communicated to the applicant as soon as practicable by the local authority

b. the maximum period of extension which can be granted by the local authority is 3 months

(7) the Minister shall make regulations in respect of the exceptional circumstances acceptable for an extension of the applicable time limits

(8) Where the local authority, is satisfied that in the circumstances of the case there are grounds for granting the extension sought by the applicant under *subsection (6)*

(a) they shall give notice in writing to the applicant to grant such extension and time period of same, or
(b) by notice in writing to applicant, refuse such an extension and set out the reasons for the refusal.

a A refusal of any extension request can be appealed to the relevant local authority and

b the Minister shall prescribe the content and format of any such appeals

(c) the maximum period of extension which can be granted by the local authority is 3 months

(9) Without prejudice to *subsection (1)* a relevant local authority may refuse to make an interim grant payment or any payment of the grant approved where it is satisfied that the applicant has not complied with any conditions applied to the grant approval under section 15(4)

(10) After receipt of the documentation under *subsection* (4) the local authority shall issue a letter of assurance to the relevant owner confirming eligibility for a second grant in respect of a dwelling which has been remediated and for which a post works remedial Works Plan and a Certificate of Remediation has been received and validated by the local authority in respect of works other than remediation works related to the demolition and rebuild of the dwelling

(11) Without prejudice to *subsection (1)* a relevant local authority may recover from an applicant any grant funding paid where it transpires that false or misleading information has been provided by an applicant and the grant payment would not have been made without reliance on the false and misleading information provided.

(12) Without prejudice to *subsection (1)* a relevant local authority may recover from an applicant any grant funding paid where it transpires that the remediation works approved have not been fully completed by the relevant owner

(12) where *subsections (11) or (12)* are applicable, an applicant shall have an obligation to repay any such grant payments and in default of repayment any such payments can be recovered by the local authority as a simple contract debt

Explanatory note:

Provision is made for the claiming of interim grant payments and the requirements in respect of the final grant payment. A time limit of 15 months applies for the submission of the final grant payment request to the LA but this may be extended in exceptional circumstances beyond the applicants control on application for a period not exceeding 3 months.

The process for claiming interim grant payments will be set out in regulations.

A local authority may refuse to make an interim grant payment or any grant payment where the conditions of grant approval have not been complied with. Such a refusal can be appealed

A local authority may recover grant payments made where false or misleading information has been provided which led to the grant payment being made or the remediation works approved have not been fully completed by the relevant owner. A local authority may recover grant payments made where the approved remediation works approved have not been fully completed by the relevant owner.

Head 19 Second Grant Application

Provide along the following lines:

(1) Where the grant approved under *section 15 (2)* and the remediation works carried out by the relevant owner under section 15(4) are otherwise than to demolish and rebuild, an application may, if required, as a result of subsequent manifest damage to blockwork retained in the relevant dwelling following the initial remediation works, which arises from the use of defective concrete blocks which have been damaged in accordance with I.S. 465, be made for a second time in respect of the relevant dwelling

(2) Subject to *subsection (1)* a second grant application may only be made for a relevant dwelling that received the final grant payment in accordance with *section 18 (4)*

(3) An application for a second grant for a relevant dwelling shall be made within a period of no later than 40 years from the date of the first grant approval for the same relevant dwelling and shall require that a copy of the Letter of Assurance is submitted to the local authority

(4) An application for a second grant approval shall comply with the relevant conditions set out for the original grant approval for a relevant dwelling under *section 10* of this Act. Without prejudice to *subsection (3)* the Minister may by regulation, set out any additional conditions in relation to a second grant application under the provisions of this Act

(5) Where an application is made for a second grant on a relevant dwelling by a person other than a relevant owner, the applicant shall be limited to a maximum of one application under *subsection (1)* in respect of –

(i) a principal private residence which is a relevant dwelling, and

(ii) one application in respect of a rented dwelling.

Explanatory Note:

The Government decision on the enhanced scheme makes provision for eligibility for a second grant application for homeowners whose home is initially remediated otherwise than through full demolition and rebuild but subsequently blockwork retained within the home after the first remediation proves to be defective and damaged in accordance with I.S.:465.

It is intended that the second grant option would go with the home and not lie exclusively with the homeowner. Further conditions in relation to the second grant application are set out and may be the subject of regulations by the Minister.

Head 20 Clawback of Grant Payment

Provide along the following lines:

(1) This section applies to the first grant paid to a relevant owner under this Act where the relevant dwelling concerned was a rented dwelling.

(2) A clawback provision by way of a charging order, of 100% of a grant paid to a relevant owner shall apply on the first anniversary of the final grant payment having being paid by the local authority unless the relevant owner confirms by affidavit, not less than 2 weeks and not more than 4 weeks before the anniversary date that they -–

(a) remain the owner of the property, and

(b) provide to the relevant local authority proof that a tenancy in the relevant dwelling remains registered with the RTB

(c) the proofs provided in paragraph (b) shall include

i a copy of the current tenancy agreement where a written tenancy agreement exists

ii where a written tenancy agreement does not exist confirmation and evidence that an oral tenancy agreement exists

iii evidence of registration of the tenancy under (i) and (ii) with the RTB and

iv evidence of a declaration of rental income or valuable consideration to the Revenue Commissioners in respect of the relevant dwelling

or

(d) is on that date undertaking repairs to the relevant dwelling for the purposes of making the relevant dwelling available to rent, or

(e) has before that date made reasonable efforts to secure a tenancy of the relevant dwelling but has been unable to do so and

(f) the relevant dwelling remains advertised and available for rent under an tenancy within the remit of the RTB

(3) The clawback provision outlined in *subsection (2)* shall apply on each subsequent anniversary of the final grant payment except that the percentage referred to in *subsection (2*) shall reduce by 5% per annum.

(4) Failure by the owner of a rented dwelling to provide the evidence required under subsection (2) will result in the clawback becoming immediately repayable

(5) The Minister shall prescribe the detail of the charging order to be registered and the clawback provisions which shall apply and the obligations of a relevant owner in respect of any future transfer or sale or withdrawal from the rental market of a relevant dwelling

Explanatory Note:

A clawback provision applies in respect of rented dwellings registered with the RTB at the 1 November, 2021. Owners of rented dwellings who wish to access the grant scheme will have to consent to a charging order giving effect to the clawback provisions.

The clawback provision will apply automatically on the first anniversary and each subsequent anniversary of the final grant payment unless the relevant owner can provide evidence that they remain the owner of the property and that a tenancy in the property is registered with the RTB. The clawback is provided for to try and ensure that the rented dwelling remains within the rental sector and within the ownership of the original grant applicant.

The clawback provision will wither at a rate of 5% per annum if the rented dwelling remains in the ownership of the applicant and rented under a tenancy registered with the RTB. Flexibility on the implementation of the clawback provision is provided where a rented dwelling is under repair or between tenancies on the anniversary date

PART 3

APPEALS

Head 21 Appeals Panel

Provide along the following lines:

(1) The Minister shall establish and maintain an Appeals Panel to determine the appeals provided for in this Act.

(2) The Minister shall appoint up to 10 people to the panel, who in the opinion of the Minister, have experience or expertise in matters relating to the hearing of appeals under this Act.

(3) A member of the Appeals Panel shall hold office for such a period, not exceeding 5 years from the date of his or her appointment, as the Minister determines.

(4) The Minister shall appoint a chairperson of the Appeals Panel from among the members of the Appeals Panel.

(5) A member of the Appeals Panel whose term of membership of the Appeals Panel expires shall be eligible for reappointment as a member of the Appeals Panel on one such occasion.

(6) A member of the Appeals Panel is entitled to be paid such remuneration, fees or allowances for expenses as the Minister, with the consent of the Minister for Public Expenditure and Reform, determines.

(7) A member of the Appeals Panel may at any time resign from office by giving notice to the Minister of his or her resignation.

(8) A resignation under *subsection (7)* takes effect one month after the day on which the Minister receives the notice.

(9) The Minister may at any time remove from office a member of the Appeals Panel if, in the opinion of the Minister—

(a) the member has become incapable through ill-health of effectively performing his or her functions,

(b) the member has committed stated misbehaviour, or

(c) the removal of the member appears to the Minister to be necessary for the effective performance by the Appeals Panel of its functions.

(10) A member of the Appeals Panel shall cease to be qualified for office and shall cease to hold office if he or she—

(a) an elected member or employee of a local authority

(b) a board member or employee of the Housing Agency

(c) elected to Dail Eireann

(d) is adjudicated bankrupt,

(e) makes a composition or arrangement with creditors,

(f) is sentenced by a court of competent jurisdiction to a term of imprisonment,

(g) is convicted on indictment of an offence, or is convicted outside the State of an offence consisting of acts or omissions which would constitute an offence triable on indictment if done or made in the State,

(h) is convicted of an offence involving fraud or dishonesty,

(11) If a member of the Appeals Panel dies, resigns, ceases to be qualified for office or is removed from office, the Minister may appoint a person to be a member of the Appeals Panel to fill the casual vacancy so occasioned.

(12) A person appointed to be a member of the Appeals Panel pursuant to *subsection (11)—*

(a) holds office for so much of the term of office of the member who occasioned the casual vacancy concerned as remains unexpired at the date of the appointment, and

(b) is eligible for reappointment as a member of the Appeals Panel on the expiry of that period.

(13) The Appeals Panel shall be independent in the performance of its functions.

(14) The Minister shall provide such support of an administrative nature to the Appeals Panel as the Minister in his or her opinion determines is necessary to enable the Appeals Panel to perform its functions.

Explanatory Note:
There shall be a 10 person appeal panel established to determine the appeals provided for in this Act. The Minister shall appoint a Chairperson. The term of office for a member of the appeal panel shall be 5 years and the maximum number of terms which can be served are two

Head 22 Appeals to the Appeals Panel

Provide along the following lines:

(1) an applicant may appeal a decision of the Housing Agency or a relevant local authority under sections 10(10)(b), 15(1)(ii), 15(2) or 18(9) to the appeals panel

(2) an appeal under *subsection 1* shall be made not later than 28 days after the date of notification of the decision to the applicant, as appropriate.

(3) Following consideration of the appeal, the Appeals Board shall-

(a) affirm the decision the subject of the appeal or

(b) where the Appeal Board considers that a serious or significant error of law or fact, or a series of minor errors of law and fact which, when taken together, amount to a serious or significant error, was made by the designated local authority or the Housing Agency, annul the decision and direct the designated local authority or the Housing Agency, as the case may be, to reconsider its decision in accordance with such directions as the Appeal Board may consider appropriate

Explanatory Note

Sets out the decisions which can be appealed, the time periods for appeals and the grounds of appeal. The decisions which can be appealed are in respect of the decision of the local authority in relation to validation of an application, the decision of the Housing Agency in relation to a dwelling having met the damage threshold, the determination of the Housing Agency in relation to the relevant remedial option and the maximum level of grant assistance and any refusal by the local authority to make payment of a grant approved.

Head 23 Appeal Board

Provide along the following lines:

(1) Upon receipt by the Appeals Panel of an appeal, an Appeals Board of 3 persons shall be appointed by the chairperson of the Appeals Panel from among the members of the Appeals Panel to determine the appeal.

(2) The chairperson of an Appeals Board shall be appointed by the chairperson of the Appeals Panel from among the members of the Appeals Board save where the chairperson of the appeals panel is a member of an appeals board they shall act a chairperson of the appeals board

(3) The Minister shall provide such support of an administrative nature to an Appeals Board as the Minister in his or her opinion determines is necessary to enable the Appeals Board to perform its functions.

(4) In relation to an appeal falling, to be determined by an Appeals Board, the chairperson of the Appeals Board—

(a) shall establish the procedures to be followed regarding the making of submissions to the Appeals Board and their form, and

(b) may establish the procedures to be followed regarding—

(iii) requests by the Appeals Board for information or further information, for the purposes of the appeal, from the parties to the appeal or other persons,

(iv) provision by the Appeals Board to the parties to the appeal of information received by the Appeals Board for the purposes of the appeal,

(v) the period within which the Appeals Board shall, in relation to an appeal make its determination in relation to the matter,

(vi) any other matter as the Appeals Board considers appropriate for the proper performance of its functions.

(5) In considering an appeal under this section an appeals board shall—

(a) be confined to the reports and documentation upon which the decision of the original decision maker were grounded

(b) subject to procedures prescribed under *subsection (4)*

(c) make a decision in writing determining the appeal as soon as is practicable in all the circumstances of the case, which may be a determination to—

(i) confirm the decision the subject of the appeal,

(ii) revoke the decision and replace it with such other decision as the appeals board considers appropriate,

and

(d) send a copy of the decision to the applicant together with the appeal board's reasons for the decision and shall advise that it can be appealed to the High Court on a point of law within 28 days.

(6) An Appeals Board shall be independent in the performance of its functions

Explanatory Note:

Sets out how appeals are to be handled by the appeals panel. The Chairperson of the Appeals Panel shall, for each appeal to be considered, establish an appeals boards of 3 members from amongst the membership of the appeals panel who shall consider the appeal.

In considering appeals the appeals board shall be confined to considering the reports and documentation which were available to the original decision maker and the grounds upon which that decision were based.

PART 4
MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS

Head 24 Subrogation of Rights

Provide along the following lines:

(1) Where the relevant owner is approved for a grant payment for a relevant dwelling under *section 15* of this Act, the Minister shall be subrogated to such rights or claims related to the relevant dwelling as the applicant may have against other parties in respect of damage, loss or expense arising from or connected to the use of defective concrete blocks in the construction of the relevant dwelling.

(2) The relevant owner shall provide all information required under *subsection (1)* as part of the grant application process under *section 10(5)*

(3) the Minister shall make regulations in respect of any specific requirements under this section

Explanatory Note:

The State will take over a legal right or claim related to defective concrete blocks which a relevant owner may have against any party.

Head 25 Indemnity from Suit

Provide along the following lines:

(1) Civil or criminal proceedings shall not lie in any court against a relevant person or the in respect of any act done or omitted to be done by him or her in the performance, or purported performance, of his or her functions as such member unless the act or omission concerned was done in bad faith.

(2) In this section "relevant person" means
   (a) a person employed by the local authority,
   (b) a person employed by the Housing Agency
   (c) a member of the Appeals Panel

Explanatory Note
This is a standard provision to protect persons in the performance of their functions under this Act.

Head 26 Processing of personal data

Provide along the following lines:

(1) Bodies that may process personal data for the purposes of the functions assigned to it by or under this Act or any other enactment include
    (a) a relevant local authority,
    (b) The Housing Agency,
    (c) The Appeals Panel,
    (d) The Appeals Board

(2) Such processing shall go no further than is necessary for the carrying out of those functions.

Explanatory Note
Standard provision in relation to the processing of personal data under this Act.

Head 27 Disclosure of confidential information

Provide along the following lines:

(1) Except in the circumstances specified in *subsection (2)* a person shall not disclose confidential information obtained while performing functions under this Act.
(2) A person does not contravene *subsection (1)* by disclosing confidential information if the disclosure -
    (a) Is made to the Minister by or on behalf of the local authority and or Housing Agency, or in compliance with this Act,
    (b) Is made to or authorised by the local authority and or Housing Agency, or
    (c) Is required by law

Explanatory Note

Standard provision precluding persons disclosing confidential information except as provided for under this Act.

Head 28- Data Sharing

Provide along the following lines:

(1) In this Act, "data-sharing" means the disclosure of information, including personal data, by a public body to another public body.

(2) The information in *subsection (1)* may include the following details

(a) relevant owner's name and address

(b) Address and eircode of the relevant dwelling

(c) copy of reports on the relevant dwelling completed under the provisions of this Act

(d) the remediation option approved on a relevant dwelling under the provisions of this Act

(e) the grant amount approved on a relevant dwelling under the provisions of this Act

(3) A relevant local authority or the Housing Agency may disclose personal data to another public body, where the personal data concerned is -

(i) necessary for the purpose of the performance of a function of the public body concerned, where the first or second mentioned public body is providing or proposes to provide a service to the relevant owner

(ii) to establish the entitlement of a relevant owner to the provision of a service being delivered by a relevant local authority or another public body on the basis of information previously provided by the relevant owner to the first mentioned public body.

Explanatory Note

Standard provision allowing for data sharing including personal information by one public body with another.

Head 29 - Transitional Provisions

Provide along the following lines:

(1) Applicants who have made an application under the Defective Concrete Blocks Grant Scheme, before the commencement date of this Act and have received a confirmation of grant approval and have either not yet commenced, have commenced or have completed the remediation works shall have their application reviewed/processed under the terms of the current scheme with the following enhancements

a. the maximum overall grant available to a relevant owner shall be increased to €420,000 or 100% of the actual costs whichever is the lesser
b. a grant of up to €15,000 or 100% of the cost, whichever is the lesser, shall be available to relevant owners for alternative accommodation costs,
c. a grant of up to €5,000, or 100% of the cost, whichever is the lesser, shall be available to relevant owners for storage costs and
d. a grant of up to €5,000, or 100% of the cost, whichever is the lesser, shall be available to relevant owners for essential immediate repair works carried out by the relevant owner on foot of a recommendation by a competent building professional as part of a building condition assessment
e. an entitlement to receive a Letter of Assurance and make a second grant application in specified circumstances
f. such other enhancements to the scheme as can be applied to applicants who have received their confirmation of grant approval

(2) Applicants who made an application under the current Defective Concrete Blocks Grant Scheme, before the commencement date of this Act and have received a confirmation of eligibility shall have the grant amount calculated, approved and processed to completion by the local authority under the provisions of this Act,

(3) Applicants who made an application under the current Defective Concrete Blocks Grant Scheme, before the commencement date of the Act and have not received a confirmation of eligibility on the commencement of this section shall have their application passed to the Housing Agency for determination of the relevant remedial option and grant amount and processed thereafter by the local authority under the provisions of this Act. The Housing Agency in making a determination on the application can either

a. accept the I.S.465 report prepared by the applicants engineer or
b. engage its own engineer to complete an I.S. 465 report on the relevant dwelling and

(4) Applicants who have not made an application under the current Defective Concrete Blocks Grant Scheme, before the commencement date of this Act, but have engaged a competent engineer to complete a report in accordance with I.S.465, shall have their application processed under the provisions of this Act except that the Housing Agency can either accept the I.S.465 report commissioned by the homeowner or engage its own engineer to complete an I.S. 465 report on the relevant dwelling

(5) the Minister shall make regulations in relation to the application of the transitional arrangements

Explanatory note:

Makes provision for the handling of applications which are in progress under the current Defective Concrete Blocks Grant Scheme, the transitional provisions to apply and the application retrospectively of the enhancements under this Act to those applications.

Provides for the Minister to make regulations in relation to the application of the transitional arrangements with further detail on the requirements in respect of alternative accommodation and storage costs and the recoupment by relevant owners of costs incurred on the preparation of an engineer's report in accordance with I.S. 465 and the timelines for acceptance of I.S.465 reports prepared by the applicant's competent engineer.

Also makes provision for the respective responsibilities of the Housing Agency and the local authorities in respect of applications which have not yet been determined and for relevant owners who have commissioned an engineer's report before the commencement of this Act.

Head 30: Amendment to the Planning and Development Act 2000

Provide along the following lines:

(1) Notwithstanding the requirements of the Planning and Development Act 2000, but subject to section 4(4) of that Act, development consisting of the carrying out of works for remediation and repair to defective concrete blockwork in a relevant dwelling for and on behalf of a relevant owner including, the demolition and replacement of part or all of the dwelling where the said remediation, repair or replacement works shall not be inconsistent with, or materially different from, the appearance and character of the original dwelling shall be regarded as exempted development for the purposes of that Act.

(2) *subsection (1)* will only apply to homes which have been approved for remediation works on either a first or second application under the provisions of this Act

Explanatory Notes:

This section provides for an amendment to the Planning and Development Act 2000 to confer exempt development status on all remediation works under this scheme where such works are not inconsistent with or materially different from the appearance and character of the original building.

This provision is subject to section 4(4) of the Planning and Development Act, 2000 and will ensure that any repair, remediation, demolition and replacement will be like any other exempted development whereby if an EIA or an AA is required then planning permission would be required for that particular development work.

The exemption covers both first and second applications under the provisions of this Act.

The definition of “relevant dwelling” under this Act now provides for grant assistance to only be available for dwellings that are not unauthorised.

Head 31 Advances by Minister to Persons or Bodies engaged in Research and Training

Provide along the following lines:

(1) The Minister may, with the consent of the Minister for Public Expenditure and Reform, make out of moneys provided by the Oireachtas, a grant or a loan on such terms and conditions as may be determined by the Minister, to any of the following:

(a) a body which, in relation to defective concrete blocks and by association aggregates, foundations or cavity wall insulation, conducts research or provides training,

(b) a person engaged, at the request of or with the concurrence of the Minister, in research or training in relation to defective concrete blocks and by association aggregates, foundations or cavity wall insulation

Explanatory Note

The Minister is empowered to provide funding for research and training on the issue of defective concrete blocks to a person or body

Head 32 Local Authority and Approved Housing Body Owned Dwellings Impacted by Defective Concrete Blocks

Provide along the following lines:

(1) The Minister may, with the consent of the Minister for Public Expenditure and Reform and subject to such regulations as may be made by the Minister for the purposes of this section, make, out of moneys provided by the Oireachtas, to a relevant local authority or an Approved Housing Body executing remediation works arising from the use of defective concrete blocks during the construction of houses of which they are the owner, a grant of such amount as may be appropriate having regard to subsections (2) and (3) of this section.

(2) A grant for a single dwelling under this section shall not exceed the financial limits under section 14 of this Act

(3) A grant under this section shall be calculated in accordance with section 14 of this Act

Explanatory Note:

Provides a legal entitlement for the Minister to introduce a scheme of grant assistance for local authorities and approved housing bodies to remediation social homes in their ownership which have been impacted by defective concrete blocks.

Head 33 – Review of the Operation of the Act

Provide along the following lines:

The Minister shall—

(*a*) not later than 3 years after the establishment day, commence a review of the operation of this Act, and

(*b*) not later than 12 months after the expiration of the said 3 years, make a report to each House of the Oireachtas of his or her findings and conclusions resulting from that review.

Explanatory notes

A review of the operation of the Defective Concrete Blocks Grant Scheme under the provisions of this Act will commence 3 years after the establishment day.

PART 5 ENFORCEMENT AND COMPLIANCE

Provide along the following lines:

Head 34 - Appointment of authorised officers

(1) The Housing Agency and relevant local authorities may appoint such and so many persons, including members of the staff of the Agency or local authority, as it considers appropriate to be an authorised officer or authorised officers for the purposes of this Act.

(2) A person appointed to be an authorised officer under this section shall on his or her appointment be furnished with a warrant of his or her appointment, and when exercising a power conferred by this Act shall, if requested by any person affected thereby, produce such warrant of appointment to that person for inspection.

(3) An appointment under this section shall cease—

(a) if the Housing Agency or relevant local authority revokes the appointment,

(b) if the appointment is for a fixed period, on the expiry of that period, or

(c) in the case of a person who is a member of the staff of the Housing Agency or the relevant local authority, if the person ceases to be a member of the staff.

Explanatory notes
Standard provision for appointment of authorised officers

Head 35 Powers of Authorised Officers

Provide along the following lines:

(1) For the purpose of assessing an application under *sections 10 or 12*, an authorised officer may—

(a) subject to subsection (2), enter at all reasonable times any relevant property and inspect the property,

(b) require any person at the relevant property concerned, including the owner or occupier, to give the authorised officer such information and assistance as the authorised officer may reasonably require for the purposes of his or her functions under this Act.

(2) An authorised officer shall not enter a dwelling, other than—

(a) with the consent of the occupier, or

(b) pursuant to a warrant

(4) A person who—

(a) refuses to allow an authorised person to enter any premises or to take samples, or carry out tests, examinations or analysis in the performance of their functions under this Act,

(b) obstructs or impedes an authorised person in the exercise of any of the powers conferred on him or her by this Act or,

(c) fails or refuses to comply with any requirement of this section,

shall be guilty of an offence and shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months or both.

(5) The Minister may make regulations for the purposes of this section.

(6) Without prejudice to the generality of subsection (5), regulations under this section may provide for all or any of the following matters:

(a) the taking of samples and the carrying out of tests, examinations and analyses;

(b) the specification of the classes of persons to be responsible for taking such samples and for the carrying out of such tests, examinations and analyses;

(c) the specification of the certificate or other evidence to be given of the result of any such test, examination or analysis and the class or classes of person by whom such certificate or evidence is to be given.

(7) Any certificate or other evidence given or to be given in respect of any prescribed test, examination or analysis of any sample shall in relation to that sample be evidence, without further proof, of the result of the test, examination or analysis unless the contrary is shown.

(8) The powers of authorised officers under this Act shall operate in tandem with and not as a substitute for powers and functions conferred on local authority or Housing Agency staff under other legislation

Explanatory Note

Standard provision to provide powers to authorised officers in the carrying out of their functions under this Act.