



## **Supports for Legacy Defects in Apartments and Duplexes**

**18 January 2023**

### **Scheme to Support Legacy Defects in Apartments and Duplexes**

1. The Government gave approval to the Minister for Housing, Heritage and Local Government, Darragh O'Brien, TD, today, 18 January 2023, to draft legislation to establish supports for the remediation of fire safety, structural safety and water ingress defects in purpose-built apartment buildings, including duplexes, constructed between 1991 and 2013.
2. It is intended that only defects that are attributable to defective design, defective or faulty workmanship, defective materials (or any combination of these) and were in contravention of the Building Regulations applicable at the time of construction will be eligible for inclusion in the scheme.
3. Defects that originate from inadequate maintenance, a failure of sinking funds to adequately allow for end-of-life replacement of building and safety systems, or inadequate management of later works to the building that have inadvertently resulted in defects will not be included within the scope of the scheme.
4. The scheme will support the remediation of relevant defects, where practicable, to the standard that applied at the time of their original construction. Where this is not practicable, alternative approaches and options will be considered that provide a reasonable level of life safety protection. In this regard, a Code of Practice in the context of the Fire Services Acts, to provide guidance to relevant professionals, including guidance on interim safety measures is currently being developed.
5. The scheme will incorporate a means or methodology, based on the Code of Practice, for prioritising the allocation and nature of support and funding, including the funding of interim measures to ensure that the highest risk buildings will be the first to be supported.
6. The scheme will provide for a form of certification, based on the Code of Practice, in relation to the works carried out to remediate defects in an apartment/duplex building. This is important for a range of stakeholders and processes e.g. insurance bodies, financial institutions, conveyancing etc.
7. A whole building approach will be taken to remediate relevant defects and to improve the safety of all occupants in the building. In light of their existing legal responsibilities and ownership of common areas, it is envisaged that Owners' Management Companies (OMCs) will be funded to carry out the necessary remediation works, with specific limitations or exemptions on certain commercial owners.
8. The scheme will be administered by the Housing Agency on a nationwide basis and interaction and interdependency with local authority fire services and others will need



to be considered, with the remediation of fire safety defects carried out to the satisfaction of the local authority fire services. An effective advice and information service within the Housing Agency will be established to support for OMCs and homeowners (who are also members of the OMC).

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

### **Next Steps**

10. The Minister for Housing, Heritage and Local Government will commence drafting of a general scheme to establish supports for the remediation of fire safety, structural safety and water ingress defects in purpose-built apartment buildings, including duplexes, constructed between 1991 and 2013. In parallel, the process for fire safety works that are entered into or commenced from the date of the Government decision, i.e. 18 January 2023, will be considered as a priority.
11. It has been agreed by Government that the principle of retrospection will be provided for, with the process for making retrospective payments to be worked out.
12. Resource planning, training and development of appropriate professional registers will need to take place in tandem with the design of the scheme e.g. for local authority fire services and for other construction and fire safety professionals etc.
13. Given that the overall potential scale and estimated cost of fixing the problem is so considerable, it will take many years to address all buildings affected, and resources and works will therefore need to be prioritised.
14. The Minister for Housing, Heritage and Local Government is also developing proposals for the establishment of independent Building Standards Regulator for further consideration by Government. The objective is to ensure that an independent Building Standards Regulator has sufficient breadth of scope, effective powers of inspection and enforcement and an appropriate suite of sanctions.