



CONSTRUCTION DEFECTS
ALLIANCE

Budget 2024

Submission

to

**Department of Finance
Department of Public Expenditure and Reform
Department of Housing, Planning and Local Government
and Oireachtas members**

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1. Construction Defects Alliance

The Construction Defects Alliance is an informal grouping – which has the support of the Apartment Owners’ Network (AON) – currently involving hundreds of apartment owners and OMCs from over 200 different locations around the country which are affected by construction defects. The Alliance also has active involvement from some of the professionals who are working with the owners and OMCs concerned.

The Alliance has its origins in the Beacon South Quarter (BSQ) Lobby Group which has been campaigning for the last number of years for action for homeowners affected by defects. Through that Lobby Group’s campaigning work other individual owners and OMCs approached it and got involved in the campaign. Ultimately, as the numbers began to grow, the Construction Defects Alliance was set up in autumn 2019.

The Alliance has one very simple aim – the implementation of the Joint Oireachtas Housing Committee’s *Safe As Houses?* report, which was published in January 2018.

2. Submission Context

2.1 Report of Working Group on Defective Homes

Further to the Programme for Government (PFG) commitment that the Government would examine *“the issue of defective housing...having regard to the recommendations of the Joint Oireachtas Committee on Housing report, ‘Safe as Houses?’”*, the Minister for Housing, Local Government and Heritage, Darragh O’Brien TD, established an independent Working Group to Examine Defects in Housing in early 2021.

The Working Group issued its report at the end of July 2022 and it showed that:

- Up to 100,000 Celtic Tiger era apartments have been affected by fire safety issues, damp due to water ingress and other defects;
- Average remediation costs are €25,000 per unit;
- Only a small proportion of the affected apartments had completed the remediation of their defects by March 2022 – around 12% of the total – meaning that hundreds of thousands of people are living in apartments that are unsafe and unhealthy.

2.2 Government Decision

Further to its consideration of the Working Group’s report, on 18 January last, the Government approved a proposal from Minister Darragh O’Brien 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.

It was also agreed by Government that the principle of retrospection will be provided for in the scheme, with the details of the process for making retrospective payments to be worked out.

2.3 Legislative Timeline

Recent discussions with the Minister and his officials indicate that the anticipated timeline for the publication of the General Scheme of the Bill is January 2024, with the pre-legislative scrutiny process before the Oireachtas Housing Committee beginning in mid-January 2024 at the earliest.

The hope is that the legislation would be enacted during the second quarter of 2024 and the remediation support scheme would be up and running in autumn 2024.

The long drawn-out timeline for the delivery of the remediation support scheme – over two years since the publication of the Working Group report and over 18 months since the initial Government decision – creates a significant challenge in terms of maintaining the confidence of apartment owners. Firstly, in terms of their belief that the scheme will actually be put in place and secondly, confidence that they should persevere with paying for remedial works that are in hand or planned.

It's important that Budget 2024 assists in the process of confidence building in both regards.

2.4 Interim Measures

One of the key recommendations in the report of the Working Group to Examine Defects in Housing was that a Code of Practice be developed in the context of the Fire Services Acts, to provide guidance to relevant professionals, including guidance on interim fire safety measures for defective apartment and duplex complexes.

It's understood that the draft Code of Practice – the publication of which is imminent – says that, where necessary, interim measures should be carried out – pending the implementation of full remedial works – to enable continued use of the building as an apartment/duplex building. From the Construction Defects Alliance's perspective, this makes perfect sense.

Crucially – because many developments will be waiting for a number of years to have remedial works completed – where such interim fire safety measures are indicated by fire safety assessment, the draft Code of Practice is understood to propose that they should be considered for immediate implementation pending completion of remedial works following consultation with the relevant fire authority.

The Alliance understands that the draft Code of Practice suggests that the type of interim fire safety measures envisaged include – amongst many items – the provision of an enhanced fire detection and alarm system to ensure early detection and warning, together with enhanced fire safety management measures to ensure safe egress from the building and temporary fire resisting construction.

It is crucial that the Government acts in 2023 and in 2024 in putting such an interim fire safety measures scheme in place.

2.5 Retrospection and New Remedial Works

Based on the Government decision of 18 January 2023, Budget 2024 should make provision for reimbursing those people who have had their units remediated, who have paid their remediation costs and the costs of any interim measures which they have paid for and their fire assessment costs.

The report of the Working Group to Examine Defects in Housing indicates that – as of March 2022 – up to 12,000 defective apartments had been successfully remediated and a further 34,000 were in the process of being remediated.

No update to those figures is yet available so in preparing this Budget 2024 submission, we're operating off two possible scenarios:

- The first based on what we know with some degree of certainty, namely that 12,000 units have been fully remediated;
- The second, based on the assumption that 20,000 out of the 34,000 units being remediated have now been completed, so the universe of fully remediated dwellings could stand at 32,000 units.

To be clear, the true number is likely to lie somewhere in between but the two scenarios represent the upper and lower limits for those due for full retrospection.

In addition, to reimbursing owners who have paid for fully completed remediation works, Budget 2024 will also need to provide for the funding of new remedial works for the last three months of 2024 during which time the scheme is likely to be operational. Given that applications for funding under the scheme are only likely to commence in September or October 2024, the number of complexes that will have passed through the application process and have received funding is likely to be small during the period in question.

2.6 Holding the Construction Industry to Account

The final issue the Construction Defects Alliance wishes to address in terms of the context for the proposals in this submission for Budget 2024 is the need for the construction industry to make a contribution towards the costs of remediating fire safety and other defects.

The *Safe as Houses?* report recommends that the remediation scheme for apartment and duplex defects should be part-funded by an industry levy as well as by the State itself. The Alliance agrees with this proposition for a couple of reasons:

- It's not fair that taxpayers pick up the entire cost of funding the defects remediation support scheme when many of those involved in causing the defects are still actively and profitably trading;
- Unless there are consequences for defective building, then the culture that deems it acceptable not to comply with the Building Regulations will continue.

Because of the use of special purpose vehicle companies by builder-developers for each development – which are then wound up on completion of each project – it is simply not possible to impose a levy on the companies directly responsible for the defects problem. In this context, the levy would have to be a sectoral one like that imposed on the banks to contribute to the costs of the 'bailout

3. Proposals and Costings

3.1 Immediate Action on Interim Measures

The Construction Defects Alliance and Government representatives agreed in autumn 2022 that an allocation would be made for the support of interim fire safety measures scheme in 2023. The Minister and his advisers have confirmed publicly and privately that funds are in place for an interim fire safety measures scheme to commence in 2023. We understand that the sum involved is an initial €5 million.

We are proposing that, on foot of the draft Fire Safety Code of Practice, the Government sets up a Temporary Administrative Scheme for interim fire safety measures – with a particular focus on fire alarm upgrades and making means of egress from buildings fire-safe – and tasks the Housing Agency with managing that scheme. The Housing Agency could commence using the funds allocated for 2023 in autumn this year and – to get best value for money – could consider centrally engaging contractors to undertake such work.

In relation to 2024, the interim measures scheme will need to continue its work to ensure that all apartment and duplex developments are capable of being lived in safely – while they await full remediation works – in line with the Fire Safety Code of Practice.

In preparing this submission we have consulted fire safety experts who have been managing remediation projects including the provision of interim measures. Based on current and recent projects the average costs – on a per unit basis – are as follows:

Fire Alarm Upgrade	€3,626.03
Emergency Lighting	€1,318.20
Escape Route Works	€3,870.68
<i>Total per unit</i>	<i>€8,814.91</i>

To be clear, not all of these works will be required for every unit so this represents the worst case scenario from a cost perspective.

As we set out earlier, **Scenario 1** assumes that only 12,000 units have been fully remediated – and bearing in mind that the Working Group found that 90% of defective units have fire safety issues – then that would mean that up to 79,200 units might need interim measures at an upper limit cost of **€698.14 million**.

However, if **Scenario 2** is correct and 32,000 have been fully remediated – again remembering that 90% of those remaining have fire safety issues – then up to 61,200 units might require interim measures at an upper cost of **€539.47 million**.

It's also important to bear in mind that the Escape Route Works costs – which account for 44% of the costs cited above – would have been factored in to the full remediation costs of €25,000 per unit prepared by the Working Group to Examine Defects in Housing and so are not additional. However, based on the draft Fire Safety Code of Practice, they need to be brought forward for immediate action so that people can continue to live safely while awaiting the rest of the remediation works.

3.2 Assisting with Costs of Fire Safety Assessments

The interim measures set out in the draft Fire Safety Code of Practice are all premised on fire safety assessments having been conducted in apartment and duplex complexes.

Both the Pyrite Remediation Scheme and the Defective Concrete Block Scheme provide for a per unit payment of €500 for a Building Condition Assessment.

On this basis, Government should set aside **€62.5 million** – €500 for the estimated 125,000 apartments built during the period 1991 to 2013 – to either reimburse apartment owners for fire safety assessments that have already been conducted or to pay for assessments to be conducted in 2024.

3.3 Providing for Retrospection

In order to build confidence amongst apartment owners – who have been waiting many years for a remediation support scheme to be put in place – we are recommending that the owners of units that have had their buildings fully remediated up to and during 2024 should have their costs reimbursed during 2024. Importantly, this would act as an incentive to encourage people who have been paying levies to continue to do so that remediation works that are in hand continue.

As was mentioned earlier, the number of units that have been fully remediated is somewhat unclear but it is likely to range from a minimum of 12,000 units to a maximum of 32,000 units.

The report of the Working Group on Defective Homes estimated that the average cost of remediation was €25,000.

On this basis, the costs of retrospection in 2024 will range between **€300 million** and **€800 million**.

3.4 New Remediation Works

As we mentioned earlier in this submission, the number of complexes likely to have gone through the application process for funding under the remediation support scheme during 2024 will be small.

Assuming it's 10,000 units, then an allocation of €250 million – €25,000 per unit – will need to be made for 2024.

3.5 Construction Industry Levy

An intense debate on a construction industry levy took place last year and concerns were raised about the possible impact of such a levy at a time of high inflation in the sector with knock-on effects on consumers.

Taking on board these concerns, this year the Construction Defects Alliance is proposing a 2% levy on construction company profits rather than a 1% levy on output.

We would expect this measure to raise €60 million in 2024.

5. Conclusion

The Construction Defects Alliance wishes to thank the Departments of Finance; Public Expenditure and Reform; Housing, Local Government and Heritage – as well as the Ministers at the Departments – and Oireachtas members for the opportunity to make this submission.

We trust that the views expressed will be given due consideration in the deliberations over Budget 2024 and the measures that flow from that.

We submit that the measures proposed should be raised by all in whatever forum is appropriate, in particular with the Department of Housing, Local Government and Heritage.

We would be glad to expand on our proposals at a meeting or in another appropriate forum.