



## **SEANAD ÉIREANN**

**AN BILL UM RÉITEACH PIRÍTE, 2013  
PYRITE RESOLUTION BILL 2013**

**LEASUITHE COISTE  
COMMITTEE AMENDMENTS**



# SEANAD ÉIREANN

AN BILL UM RÉITEACH PIRÍTE, 2013  
—AN COISTE

PYRITE RESOLUTION BILL 2013  
—COMMITTEE STAGE

*Leasuithe  
Amendments*

\**Government amendments are denoted by an asterisk*

## SECTION 3

- \*1. In page 7, between lines 13 and 14, to insert the following:

“(3) This Act shall not apply to a garage, car park, garden, patio or other structure not used for human habitation, unless the Board is satisfied that failure to include the structure concerned in the pyrite remediation scheme may result in damage to a dwelling—  
(a) that has been included in the pyrite remediation scheme, or  
(b) in relation to which a recommendation has been made by the Housing Agency under section 16(2)(a).”.

## SECTION 9

2. In page 10, between lines 18 and 19 insert the following:

“(6) The Chairperson of the Board shall if requested, 6 months from the establishment day and at least every 12 month period thereafter come before the Joint Oireachtas Committee on Environment to provide a report on the implementation of the pyrite remediation scheme and other matters relating to the Board.”.

—*Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.*

## SECTION 11

3. In page 10, line 33, after “Minister” to insert “, with approval of the Joint Oireachtas Committee on Environment”.

—*Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.*

## SECTION 12

4. In page 11, between lines 8 and 9, to insert the following:

“(2) The Minister will provide a report to the Joint Oireachtas Committee on Environment of any gifts of money, land or property made to the Board.”.

—*Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.*

- \*5. In page 11, line 22, to delete “Authority” and substitute “Board”.

[SECTION 13]

6. In page 11, line 34, after “approval.” to insert the following:

“The Minister shall furnish the Joint Oireachtas Committee on Environment with the details of the draft scheme as soon as possible.”.

—*Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.*

SECTION 14

\*7. In page 12, line 33, after “furniture” to insert the following:

“or

(C) a combination of expenses referred to in clause (A) or (B),”.

\*8. In page 13, between lines 2 and 3, to insert the following:

“(i) the arrangements between the applicant and the Board for the giving of consent by the applicant, to the institution by the Board of any civil proceedings proper to be instituted relating to loss arising from the act or default of any person, that causes significant pyritic damage to the dwelling of the applicant;”.

\*9. In page 13, to delete line 7.

\*10. In page 13, line 9, to delete “classes of dwellings and within such classes of”.

\*11. In page 13, line 22, after “of” to insert “practicable”.

\*12. In page 13, line 22, after “scheme” to insert “or through use of the resources of the applicant”.

\*13. In page 13, between lines 28 and 29, to insert the following:

“(4) Without prejudice to the generality of *subsection (2)*, the Board, in making the pyrite remediation scheme and after taking account of the matters referred to in *paragraphs (b) and (d) of subsection (3)* may exclude from the pyrite remediation scheme dwellings with a damage condition rating of 1 (with progression), consistent with pyritic heave.”.

\*14. In page 13, between lines 34 and 35, to insert the following:

“(5) In any proceedings referred to in *subsection (2)(i)*—

(a) an order may be made for the payment of—

(i) damages to the Board, or

(ii) costs to or by the Board,

(b) no account shall be taken of the inclusion of the dwelling of the applicant in the pyrite remediation scheme or any pyrite remediation of the dwelling carried out under the scheme, and

(c) the Board may institute the proceedings on its own behalf or on behalf of the applicant.”.

SECTION 15

15. In page 14, to delete line 31.

—*Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.*

[SECTION 16]

\***16.** In page 16, lines 4 and 5, to delete “to the class of dwelling to which that dwelling belongs”.

SECTION 17

\***17.** In page 16, line 33, to delete “that”.

\***18.** In page 16, line 34, before “has” to insert “that”.

SECTION 18

\***19.** In page 17, line 21, to delete “at its next meeting” and substitute “as soon as practicable”.

SECTION 19

\***20.** In page 17, between lines 26 and 27, to insert the following:

**“Deferral of decisions”**

- 19.** (1) Where the Board becomes aware that a builder or developer of a dwelling, has instituted or invoked dispute resolution procedures arising out of or in connection with pyritic heave affecting a dwelling owned by an applicant, the making of a decision—
  - (a) by the decision maker under *section 15(6)(a)* or *section 18(1)(a)(i)*, or
  - (b) by the Board under *section 18(3)(a)*,

in relation to that dwelling may, subject to this section, be deferred.

  
- (2) Where the Board proposes under *subsection (1)* to defer the making of a decision, the Board shall give notice in writing to the applicant concerned of its intention to defer the making of a decision and invite the applicant concerned to make a written submission to it, within 21 days setting out any reasons why the making of a decision should not be deferred.
  
- (3) The Board, following the expiration of the period referred to in *subsection (2)*, shall consider any submission to it under that subsection and any other matters it considers relevant and may defer the making of a decision under *subsection (1)* for such period as it considers appropriate in the circumstances and, within 21 days, shall give notice in writing to the applicant concerned of its decision (in this section referred to as a “decision to defer”).
  
- (4) The Board shall review the decision to defer not later than 2 years after the date of the notice under *subsection (3)* and shall, thereafter, review the decision to defer not later than 1 year after the date of the previous review of the decision to defer.
  
- (5) Where the Board proposes to review the decision to defer under *subsection (4)*, it shall give not less than 21 days notice in writing of the proposal to the applicant concerned and invite the applicant to make a written submission to it, within 21 days, setting out any reasons why the making of a decision should no longer be deferred.
  
- (6) In undertaking a review of the decision to defer, the Board shall have regard to any submissions made to it under *subsection (5)* and any other relevant information and may either—
  - (a) further defer the decision, or

- (b) make a decision in relation to the applicant's dwelling,  
and, within 21 days, shall give notice in writing to the applicant concerned of its decision.
- (7) The Board may make, in relation to an application for inclusion in the pyrite remediation scheme, not more than 4 decisions to defer and, if applicable, shall make a decision on the application not later than 12 months after the fourth decision to defer.
- (8) A notice of a decision to defer under *subsections (3)* and *(6)(a)* shall advise the applicant that he or she may appeal the decision to the appeals officer within 28 days.”.

\*21. In page 17, between lines 27 and 28, to insert the following:

- “20. (1) Where, in relation to a dwelling that has been included in the pyrite remediation scheme a payment otherwise than under this Act is made to or for the benefit of the scheme participant concerned in respect of damage to the dwelling arising out of or in connection with pyritic heave, that scheme participant shall give notice in writing to the Board of the payment and the amount thereof within 28 days of the making of that payment.
- (2) On receipt of the notice under *subsection (1)* the Board shall give notice in writing to the scheme participant concerned of the total cost or, where the pyrite remediation is not commenced or completed, estimated cost of the pyrite remediation of the dwelling, including any costs referred to in *section 14(2)(e)*.
- (3) On receipt of the notice under *subsection (2)* the scheme participant concerned shall be immediately liable to pay to the Board the lesser of the following amounts:
- (a) the amount equal to the total cost or, where the pyrite remediation is not completed, estimated cost of pyrite remediation notified to the scheme participant concerned under *subsection (2)*;
- (b) the amount equal to the payment referred to in *subsection (1)*.
- (4) If the scheme participant concerned does not pay the amount specified in the notice under *subsection (2)* within 21 days of receipt of the notice, the Board is entitled to exclude the dwelling from the pyrite remediation scheme.
- (5) Where the cost of pyrite remediation has been estimated for the purposes of *subsection (2)*, the Housing Agency shall, on completion of the pyrite remediation of the dwelling, calculate the total cost of pyrite remediation of that dwelling, including any costs referred to in *section 14(2)(e)*, and shall give notice in writing to the Board and the scheme participant of that amount (in this section referred to as the “final cost”).
- (6) Where the final cost is less than the amount paid by the scheme participant under *subsection (3)*, the Housing Agency shall pay the difference between the final cost and the amount paid by the scheme participant under *subsection (3)* to the scheme participant.

[SECTION 19]

- (7) Where the final cost is greater than the amount paid by the scheme participant under *subsection (3)*, the Board may give notice of a liability to pay to the Board, and the scheme participant shall be immediately liable on receipt of that notice to pay to the Board, the lesser of the following amounts:
  - (a) the difference between the amount paid by the scheme participant under *subsection (3)* and the amount of the payment referred to in *subsection (1)*;
  - (b) the difference between the amount paid by the scheme participant under *subsection (3)* and the final cost.
- (8) Any amount not paid to the Board under *subsection (3)* or (7) shall be recoverable by the Board as a simple contract debt in a court of competent jurisdiction.
- (9) The Board, as soon as may be after receiving or recovering a payment under this section, shall pay the moneys received or recovered to the Minster.”.

*[Acceptance of this amendment involves the deletion of section 19 of the Bill.]*

SECTION 20

\*22. In page 19, line 3, to delete “Board” and substitute “decision maker”.

\*23. In page 19, line 9, to delete “and”.

\*24. In page 19, line 11, to delete “expenses.” and substitute the following:

“expenses, and

(d) with the consent of the Board enter into an agreement with any person for the performance by the person, subject to such terms and conditions including payment (if any), of such functions conferred on the Housing Agency under this Act, as may be specified in the agreement and any functions referred to in such an agreement shall remain performable by the Housing Agency.”.

\*25. In page 19, line 14, after “remediation” to insert “is being, or as the case may be,”.

\*26. In page 19, line 15, to delete “with certification to that effect” and substitute “with certification, as the Housing Agency considers necessary, to that effect”.

\*27. In page 19, line 20, after “functions” to insert “under this Act”.

SECTION 24

28. In page 20, between lines 21 and 22, to insert the following:

“(4) The Housing Agency shall if requested, 6 months from the commencement of a pyrite remediation scheme and at least every 12 month period thereafter come before the Joint Oireachtas Committee on Environment to provide a report on the implementation of the pyrite remediation scheme and other matters relating to the Board.”.

*—Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.*

[SECTION 25]

29. In page 20, line 25, after “Minister” to insert “with approval by the Joint Oireachtas Committee on Environment”.

—Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.

SECTION 27

- \*30. In page 21, line 30, after “18(3)(b)” to insert “or a decision to defer under section 19(3)# or (6) (a)#”.

#*[These are references to the subsections proposed to be inserted by amendment no. 20]*

- \*31. In page 21, line 33, after “18(4)” to insert “or section 19(8)#, as appropriate”.

#*[This is a reference to the subsection proposed to be inserted by amendment no. 20]*

32. In page 22, line 4, after “Minister” to insert “, with approval by the Joint Oireachtas Committee on Environment”.

—Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.

SCHEDULE

33. In page 25, line 4, after “Minister” to insert “, with the approval of the Joint Oireachtas Committee on Environment, ”.

—Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.

34. In page 25, to delete line 27.

—Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.

35. In page 27, line 12, after “Minister” to insert “, with approval by the Joint Oireachtas Committee on Environment, ”.

—Senators Kathryn Reilly, David Cullinane, Trevor Ó Clochartaigh.