

Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022

Bill No. 66 of 2022

Eoin McLoughlin, Senior Parliamentary Researcher (Economics)
Aoife Halligan, Senior Parliamentary Researcher (Economics)

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Abstract

The *Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022* provides the legislative basis to give effect to the enhanced Defective Concrete Blocks Grant Scheme. This scheme offers financial assistance to support affected homeowners to remediate their dwelling, where their dwelling has been damaged by the use of defective concrete blocks in its construction.



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Glossary and abbreviations

Table 1: Glossary & Abbreviations

Glossary & Abbreviations	
BCA	Building Condition Assessment
BCAR	Building Control (Amendment) Regulations
DCB	Defective Concrete Blocks
DHLGH	Department of Housing, Local Government and Heritage
HA	Housing Agency
iCRAG	Irish Centre for Research in Applied Geosciences
IS 465	Standardised protocol for determining whether a building has been damaged by concrete blocks containing certain excessive amounts of deleterious materials (such as mica)
LA	Local Authority
Minister	Minister for Housing, Local Government and Heritage
NSAI	National Standards Authority of Ireland
NZEB	Nearly Zero Energy Building
PRB	Pyrite Resolution Board
PSF	Per Square Foot
QS	Quantity Surveyor
RTB	Residential Tenancies Board
SCSI	Society of Chartered Surveyors Ireland

Summary

- The [*Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022*](#) was published on Friday 24 June 2022 and is scheduled for second stage debate on Thursday 30 June 2022 in the Dáil.
- The Bill comprises of 58 sections and 6 parts.
- The primary purpose of the legislation is to give effect to the enhanced grant scheme for affected homeowners to remediate their dwelling where it has been damaged by the use of defective concrete blocks in its construction as agreed by Government on [30 November 2021](#). This includes:
 - an increase in the maximum grant cap
 - the determination by the Housing Agency of appropriate remediation options and maximum grant amounts payable
 - a second grant opportunity, where required
 - a new damage threshold designed to ensure the worst affected homes are remediated first
 - a revised application process designed to remove a financial hurdle under the current scheme
 - exempt development status for the 'like for like' demolition and rebuild of homes
 - extension of the scheme beyond owner-occupied principal private residences
 - the establishment of an independent appeals panel
 - the extension, by Government Order, of the scheme to additional counties where needed
 - the review as required of the overall grant cap and grant rates, and adjustment if necessary, by Government Order
 - a review of the operation of the Act three years after commencement
 - provision for Exchequer funding of local authority and Approved Housing Body owned social homes which are impacted.
- An Expert Panel was commissioned by the Government back in 2016 to quantify the number of affected dwellings, establish the nature of the problem and investigate options for remediation. Its [report](#) included recommendations aimed at both providing technical guidance to homeowners and preventing the problem from recurring.
- The Defective Concrete Blocks Grant Scheme was signed into law under [S.I. No. 25 of 2020](#) on the 31 January 2020 to support affected homeowners in Donegal and Mayo. The original scheme covered up to 90% of the costs associated with the remediation of the dwelling and is administered by Donegal and Mayo County Councils. It first opened for applications at the end of June 2020.
- In June of 2021, the Minister for Housing, Local Government and Heritage (the Minister) requested that a time bound working group, with representatives from his Department, the relevant local authorities and homeowner representative groups, be established to review and address any outstanding issues in relation to the operation of the Defective Concrete Blocks Grant Scheme. Its [report](#) which was published in September 2021 included recommendations for consideration as improvements to the Scheme in the immediate term.

- On the 30th November 2021, the Government made a decision to proceed with short term changes to the current Scheme which would enhance the supports available. The Minister asked that a high level Expert Group be established to consider the technical issues which needed to be resolved. The Expert Group [reported](#) in March 2022 on their work and recommendations to date in relation to these issues.
- The [Regulatory Impact Assessment](#) accompanying the Bill estimates that the overall estimated cost of the scheme, including provision for inflation at 3% per annum for a period of 15 years, is €2.7Bn.
- A series of public meetings with stakeholders to discuss the content of the Bill were held by the Joint Committee on Housing, Local Government and Heritage on [23 June 2022](#). Given the urgency of the Bill and the fact that it would be published in advance of Committee consideration of the General Scheme, the Committee agreed that it was not possible to undertake Pre-Legislative Scrutiny.
- The L&RS has also published a [Bill Briefing](#) page on this Bill [internal access only].

Introduction

The [*Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Bill 2022*](#) was published on 24 June 2022. The Bill contains 58 sections and 6 parts and seeks to give legal effect to the enhanced Government scheme for the remediation of certain dwellings damaged by the use of defective concrete blocks in their construction.

Announcing the enhancements to the scheme back on 30 November 2021, the Minister for Housing, Local Government and Heritage, Darragh O'Brien T.D. commented that:¹

"We are making a number of significant enhancements to the current scheme, removing the 10% contribution from homeowners and increasing the maximum grant cap to €420,000. We are removing upfront prohibitive costs, providing alternative accommodation costs, giving planning exemptions for like-for-like homes, and introducing a strengthened certification process for remediated homes. We want the affected homeowners to have confidence in this scheme and to know they are being supported by Government."

The [*Explanatory Memorandum*](#) for the Bill notes that the purpose of the Bill is to give legislative underpinning to a series of measures to improve and enhance the scheme as agreed by Government on 30 November 2021. These include:

- an increase in the maximum grant cap
- additional grant assistance with accommodation, storage and immediate repairs costs
- the determination by the Housing Agency of appropriate remediation options and maximum grant amounts payable
- a second grant opportunity, where required
- a new damage threshold designed to ensure the worst affected homes are remediated first
- a revised application process designed to remove a financial hurdle under the current scheme
- exempt development status for the 'like for like' demolition and rebuild of homes
- extension of the scheme beyond owner-occupied principal private residences
- the establishment of an independent appeals panel
- the extension, by Government Order, of the scheme to additional counties where needed
- the review as required of the overall grant cap and grant rates, and adjustment if necessary, by Government Order
- a review of the operation of the Act three years after commencement
- provision for Exchequer funding of local authority and Approved Housing Body owned social homes which are impacted.

¹ See Department of Housing, Local Government and Heritage, Press Release, *Minister O'Brien announces enhancements to the Defective Blocks Grant Scheme* (30 November 2021). Available at: [gov.ie - Minister O'Brien announces enhancements to the Defective Concrete Block Scheme \(www.gov.ie\)](https://www.gov.ie/en/minister-obrien-announces-enhancements-to-the-defective-concrete-block-scheme/)

Cost implications

The [Regulatory Impact Assessment](#) (RIA) acknowledges that costing the enhanced Scheme (based on revised grant rates and inflation in May 2022) is challenging. The cost estimates provided are based on the best available knowledge at this time on the likely number of homes impacted and eligible for grant funding. The RIA estimates that the overall estimated cost of the scheme, including provision for inflation at 3% per annum for a period of 15 years, is **€2.7Bn**.

Provision has been made for the homes thought to be impacted and eligible for grant assistance within the counties of Donegal and Mayo and the likely number of impacted homes if the scheme were to be extended to the counties of Clare, Limerick, Sligo and Tipperary. Given the possibility that the spread of impacted homes could be wider than the six counties mentioned, an additional 1,100 homes are included in the overall 7,500 estimate of the number of homes which are expected to be eligible for grant assistance.

Table 2: Estimated cost for the implementation of the legislative proposals

Legislative proposal	Estimated Cost
Estimated cost of the original scheme excl. inflation (July 2019)	€1.4Bn
Estimated cost of Enhanced scheme excl. inflation (November, 2021)	€1.83Bn
<ul style="list-style-type: none"> (7,500 Homes @ Avg Cost of €244,000) Provision for inflation estimated at 3% pa 	€400M
Estimated Cost of Enhanced Scheme excl. inflation (May 2022)	€2.15Bn
(7,500 Homes @ Avg Cost of €€287,000)	
Cost including Inflation Provision at 3%	€0.55Bn
Cost including Inflation Provision at 5%	€1Bn
Cost including Inflation Provision at 7%	€1.5Bn

Source: [Regulatory Impact Assessment](#)

Pre-legislative scrutiny (PLS)

The [General Scheme of the Defective Concrete Blocks Remediation Bill 2022](#) was approved by Cabinet on 14 June 2022. It was announced that the scheme would be extended to include the counties of Limerick and Clare and that the estimated cost of the enhanced scheme would rise from €2.2 billion to €2.7 billion.

Given the urgency of the Bill and the fact that it wouldn't be published in advance of Committee consideration of the General Scheme, the Joint Committee on Housing, Local Government and Heritage agreed without opposition that it was not possible to undertake Pre-Legislative Scrutiny.

However, to assist the Committee in scrutinising the legislation in advance of its passage through the Oireachtas it was agreed to hold three public meetings at which affected homeowners, experts, and Department officials would discuss the content of the Bill with the Committee.

These public sessions took place on [23 June 2022](#) and included the following witnesses:

Session 1

- Representatives from Mica Action Group Donegal
- Representatives from Clare Pyrite Action Group
- Representatives from North Mayo Action Group

Session 2

- Representatives from Society of Chartered Surveyors of Ireland (SCSI)
- Representatives from Engineers Ireland
- Paul Forde, Chair, Expert Working Group

Session 3

- Officials from the Department of Housing, Local Government and Heritage
- Representatives from The Housing Agency

Table of provisions

Table 3: Summary of provisions contained in the Bill

Section	Title	Effect
Part 1: Preliminary and General		
1.	Short title and commencement	This is a standard provision and provides that, if enacted, this Bill will be cited as the Remediation of Dwellings Damaged by the Use of Defective Concrete Blocks Act 2022. It will be commenced by Ministerial order and different provisions may be commenced at different times.
2.	Interpretation	Section 2 defines key words and terms used in the Bill.
3.	Regulations	Section 3 of the Bill contains a standard provision in regard to Ministerial powers to make orders and regulations.
4.	Expenses	Section 4 of the Bill provides that the expenses incurred by the Minister in the administration of the Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.
5.	Designated local authority	<p>Section 5 of the Bill provides for the designation of:</p> <ul style="list-style-type: none"> a local authority to be a designated local authority for the purposes of the Act, and Donegal, Mayo, Clare and Limerick specifically as designated local authorities <p>The Housing Agency will have a role in testing dwellings and making recommendations as to designations of administrative areas. Designations may be for either the whole or specific geographic parts of a local authority area for the purposes of the scheme. The Minister may prescribe the form, manner, standards and procedures of Housing Agency assessments as well as the form and manner of making recommendations.</p>
6.	Advances to and expenditure of designated local authority and Housing Agency	Section 6 of the Bill provides for advances to, and expenditure by, local authorities and the Housing Agency for the purposes of implementing their functions under the Act. It provides for the submission of budgets and reports of expenditure to the Minister.
Part 2: Grants		
7.	Definitions for <i>Part 2</i>	Section 7 of the Bill defines key terms for the administration of the scheme.
8.	Relevant dwelling	Section 8 of the Bill defines a dwelling as a relevant dwelling, subject to certain conditions, if:

		<ul style="list-style-type: none"> a) it is located in a designated local authority area, b) the construction of the dwelling was completed before 31 January 2020, c) defective concrete blocks were used in its construction, and damage was caused to the dwelling as a result of the use of those blocks, and d) it is not an unauthorised structure.
9.	Relevant owner	<p>Section 9 of the Bill defines a relevant owner. A relevant owner is an individual who owns, whether jointly or not, a relevant dwelling and:</p> <ul style="list-style-type: none"> a) became an owner of the dwelling prior to 31 January 2020, b) inherited the dwelling on or after 31 January 2020, or c) subject to certain conditions, purchased the dwelling on or after 31 January 2020.
10.	Grants	<p>Section 10 of the Bill provides for the approval of grants for remediation works, alternative accommodation and storage cost and immediate repairs.</p>
11.	Government order to increase or decrease remediation option and ancillary grant	<p>Section 11 of the Bill provides for Government Orders to increase or decrease the overall grant cap and the grants available under section 10.</p>
12.	Remediation options and building condition assessments	<p>Section 12 of the Bill provides for remediation options and the requirements for assessments of dwellings. The Minister may prescribe the:</p> <ul style="list-style-type: none"> • building condition assessment report • remediation options grant aided under the scheme • amount of grant payable in respect of remediation options • cost per square metre of completing a prescribed remediation option.
13.	Application for remediation option grant	<p>Section 13 of the Bill provides for applications to be made by homeowners for grant assistance. Completed application forms need to be accompanied by proofs, a building condition assessment report, a statutory declaration, statements, consent to inspection and testing, and other information as may be requested. The local authority will carry out validation checking of the application and will either validate the application and refer it to the Housing Agency or refuse the</p>

		application. Section 13 provides for local authority considerations, notices, reasons for referral or refusal and statements regarding appeal.
14.	Period for making applications for remediation option grant	Section 14 of the Bill provides for the time period in which applications may be made.
15.	Determination by Housing Agency of damage threshold	Section 15 of the Bill provides for the Housing Agency to consider applications referred from the local authority, assess the level of damage, inspect (if necessary) the home and determine if a home the subject of an application has met the damage threshold for entry to the grant scheme. The details of the threshold and assessment to be carried out will be set out in regulations.
16.	Consideration by Housing Agency of application for remediation option grant	Section 16 contains Housing Agency consideration of the appropriate remediation option grant and the grant amount. The Agency may assess the damage, and if conditions are satisfied, approve: <ul style="list-style-type: none"> • the appropriate remediation option (or combination of options), and • the remediation option grant which may be paid.
17.	Provisions relating to remediation option grant	Section 17 of the Bill contains provisions relating to remediation option grants including: <ul style="list-style-type: none"> • some conditions, such as the need to submit a remedial works plan and other documents, and • processes used by the local authority
18.	Payment of remediation option grant	Section 18 of the Bill provides for compliance with conditions applicable to the payment of remediation option grants including claiming interim grant payments and requirements in respect of the final grant payment. The form and manner for making applications will be set out in regulations, and guidelines may be made regarding payments.
19.	Time limits for payment of remediation option grant	Section 19 of the Bill provides time limits for payment of remediation option grants.
20.	Certificate of remediation	Section 20 of the Bill provides for certificates of remediation regarding completion of works.
21.	Letter of assurance	Section 21 of the Bill provides for a letter of assurance which attaches to a dwelling and confers an entitlement to apply for a second grant under the scheme in respect of that dwelling, in specific circumstances.

22.	Ancillary grant applications	Section 22 of the Bill provides for the application process in respect of grants to cover the cost of alternative accommodation, storage and immediate repairs. The Minister may prescribe the form and manner in which applications may be made, and the procedure for payment of grants.
23.	Application for revised approval	Section 23 of the Bill provides for a revised approval in respect of an approved remediation option which is other than demolition and rebuild after work has commenced where the technical evidence supports such a change. The Housing Agency will determine the application and provision is made for the application process. The form and manner of applications will be prescribed by the Minister.
24.	Change of relevant owner	Section 24 of the Bill provides for a change of relevant owner in the event of death and inheritance and other circumstances. Regulations may be made regarding notices and accompanying matters.
25.	Application for second grant	Section 25 of the Bill provides for the application process for the second grant in respect of a dwelling to which a letter of assurance, under section 21, attaches. The second grant applies to dwellings which were initially remediated other than through full demolition and rebuild, but blockwork retained within the homes after the first remediation proved subsequently to be defective and damaged in accordance with IS 465:2018 and to which a letter of assurance attaches.

Part 3: Matters Consequent on Grant

Chapter 1 - Certain matters consequent on grant

26.	Refund of compensation	Section 26 of the Bill provides for refund of compensation, where claimants must refund grants received under this scheme to local authorities where they received monies otherwise than under this Act in respect of damage to dwellings caused by defective concrete blocks.
27.	Recovery of payment under section 18	Section 27 of the Bill provides for the recovery of grants under specific circumstances as listed. The Minister may prescribe the form and contents of notices, procedures, and the manner in which representations may be made to the local authorities in relation to their intention to make the determination.
28.	Exempted development	Section 28 of the Bill provides for the conferring of exempted development status on development

		consisting of the completion of an approved remediation option under the scheme, where such works are not inconsistent with, or materially different from, the appearance and character of the original building. The exemption covers both first and second applications under the provisions of this Act.
29.	Assignment and subrogation of claims to Minister	Section 29 of the Bill provides for assignment and subrogation of claims, where the State will take over a legal right or claim related to defective concrete blocks which a relevant owner may have against any party.
Chapter 2 - Charging orders consequent on grant to landlord		
30.	Definitions for <i>Chapter 2</i>	Section 30 of the Bill provides for interpretations in respect of charging orders.
31.	Charging orders	Section 31 of the Bill provides for the charging of dwellings (in favour of the local authority) with the full value of the grant paid in respect of rented dwellings. It also provides for annual 5% reductions in the charged amount (incremental releases) where the relevant owner continues to own and rent out the property under a tenancy registered with the Residential Tenancies Board.
32.	Relevant event	Section 32 of the Bill provides for the events which trigger the charging order in favour of the local authority. A relevant event occurs or has occurred where: <ul style="list-style-type: none"> a) the relevant owner no longer owns the relevant dwelling, having disposed of the dwelling other than by testamentary disposition, or b) subject to certain conditions, the relevant owner is no longer the landlord of a tenancy of the relevant dwelling which is registered on the residential tenancies register.
33.	Failure or cesser of incremental release	Section 33 of the Bill provides for the cessation of incremental releases where section 32 events occur.
34.	Provisions consequential on charging order	Section 34 of the Bill sets out provisions consequential on charging orders, such as how they are executed, are deemed to be mortgages for the purposes of Part 10 of the Land and Conveyancing Law reform Act, 2009, are registered as burdens on title deeds and are recoverable as simple contract debts.
35.	Release of charge	Section 35 of the Bill provides for releasing charges, deeds of discharge and execution / registration costs arising with such releases.

Part 4: Designated Local Authority or Approved Housing Body Owned Dwellings		
36.	Designated local authority or approved housing body owned dwellings	Section 36 of the Bill provides a legal entitlement for the Minister to introduce a scheme of grant assistance, within designated local authority areas, for local authority and approved housing bodies owned social homes which have been damaged by defective concrete blocks and require remediation.
Part 5: Appeals		
37.	Appeals Panel	Section 37 of the Bill provides for a 10 person Appeals Panel, and provides for appointments, tenure, pay, resignation, removal, qualification and administrative support.
38.	Appeal Board	Section 38 of the Bill provides for an Appeals Board of 3 persons from the Appeals Panel to hear and determine individual appeals.
39.	Determination of appeals	Section 39 of the Bill provides for matters in the determination of appeals, for example decisions which can be appealed, the manner in which appeals may be made, responses, matters for consideration, decisions and directions.
40.	Conduct of appeals	Section 40 of the Bill provides for the efficient conduct of appeals, and for the Minister to prescribe matters such as form, manner, fees, processes, notices, time periods and rules.
Part 6: Miscellaneous, Transitional and Saving Provisions		
Chapter 1 – Miscellaneous provisions		
41.	Minister may prescribe other deleterious materials	Section 41 of the Bill provides for the Minister to prescribe further deleterious (harmful) materials, or combinations thereof.
42.	Appointment of authorised officers	Section 42 of the Bill contains a standard provision for appointment of authorised officers.
43.	Powers of authorised officers	Section 43 of the Bill contains a standard provision to provide powers to authorised officers in carrying out their functions under this Act.
44.	Consultants and advisers	Section 44 of the Bill provides for consultants and advisers to assist the Housing Agency to undertake its functions under this Act.
45.	Indemnity	Section 45 of the Bill provides for indemnity and is a standard provision to protect persons in the performance of their functions under this Act.

46.	Data processing	Section 46 of the Bill contains a standard provision in relation to the processing of personal data under this Act.
47.	Information sharing	Section 47 of the Bill contains a standard provision allowing for data sharing including personal information by one public body with another.
48.	Disclosure of confidential information	Section 48 of the Bill contains a standard provision precluding persons disclosing confidential information except as provided for under this Act.
49.	Research and training	Section 49 of the Bill empowers the Minister to provide funding for research and training on the issue of defective concrete blocks to a person or body.
50.	Guidelines	Section 50 of the Bill provides for guidelines to local authorities in the performance of their functions under this Act.
51.	Review of operation of Act	Section 51 of the Bill provides for a review of the operation of the Act to commence not later than 3 years after the establishment day, with a Report to the Oireachtas thereafter.
52.	Offences and penalties	Section 52 of the Bill provides for offences and penalties for the furnishing of false information.
53.	Disqualification for providing false or misleading information	Section 53 of the Bill further provides for disqualification of applicants from the scheme.
Chapter 2 – Transitional and saving provisions		
Sections 54 to 58 inclusive		Sections 54 to 58 of the Bill inclusive provide for transitional and saving provisions in the administration of existing applications under the 2020 Defective Concrete Blocks Grant Scheme and the retrospective application of the enhancements under this Act to those applications. They also provide for interpretation, revocation of the initial scheme Regulations, confirmation of eligibility, confirmation of grant approval and the making of Regulations by the Minister in respect of some of these provisions.

Source: [Explanatory Memorandum](#).

Existing legislative framework

The existing legislative framework underpinning the defective concrete blocks remediation scheme includes two statutory instruments that have been introduced to give effect to the grant support scheme. In addition, the building regulations and the technical guidance included therein provides the overall legal requirement in relation to masonry construction and use in Ireland.

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

The Defective Concrete Blocks Grant Scheme was signed into law under [S.I. No. 25 of 2020](#) on the 31 January 2020. The scheme applies to the owners of dwellings (located in Donegal or Mayo) that are damaged due to the use of defective concrete blocks containing excessive amounts of deleterious materials, namely mica or pyrite.

The scheme covers up to 90% of the costs associated with the remediation of the dwelling including:

- Engineer's report
- Preparation of remedial works plan by a competent engineer
- Costs associated with a contractor carrying out the remedial works
- Professional oversight of the remedial works, including inspection and certification.

The maximum approved cost is dependent on the remedial option, as recommended in the engineer's report (see Table 4 below).

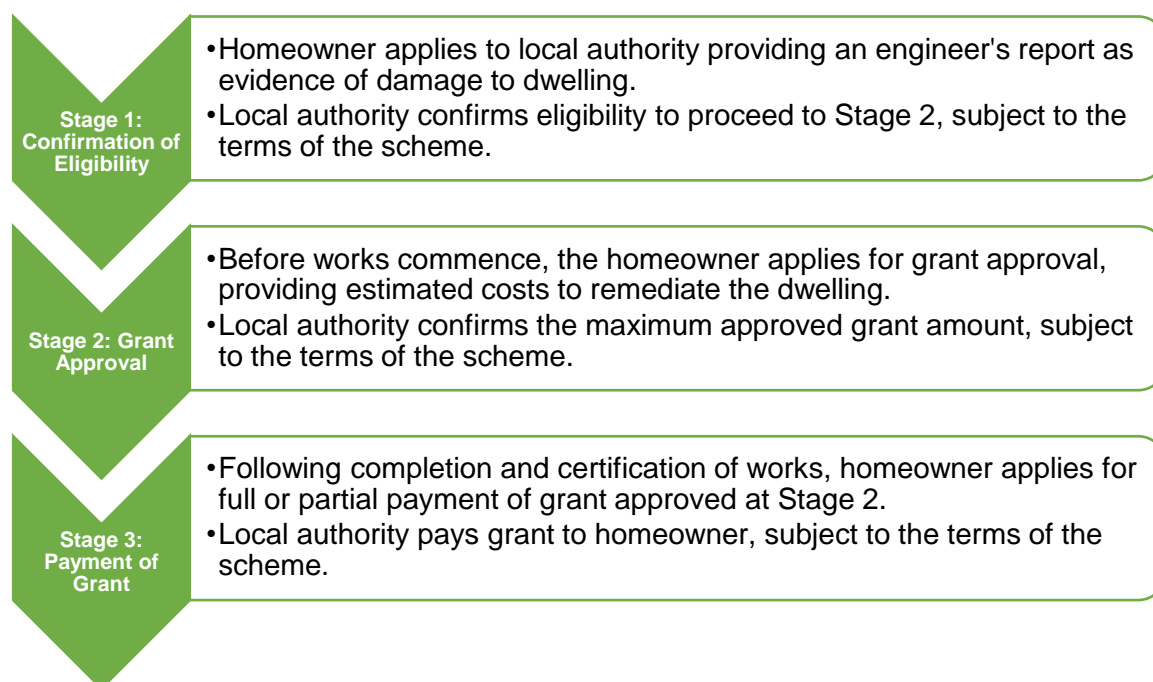
Table 4: Remediation Options

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

Source: [S.I. No. 25 of 2020](#)

The application procedure for availing of the Defective Concrete Blocks Grant Scheme is set out in Figure 1 and follows a three-stage process.

Figure 1: Application Stages



Source: [DHLGH](#) (2018)

Dwellings Damaged by the Use of Defective Concrete Blocks in Construction (Remediation) (Financial Assistance) (Amendment) Regulations 2022

The government agreed to an enhanced Defective Concrete Blocks Grant Scheme on the [30 November 2021](#). While these changes require the enactment of primary legislation and new regulations before they can be implemented, which is the purpose of the current Bill, some enhancements were provided for as amendments under the 2022 Regulations ([S.I. No 85 of 2022](#)).

In effect, the 2022 Regulations make provision for three enhancements to the existing defective concrete blocks grant scheme:²

1. Provision for the recoupment to homeowners of the cost of the engineers fees associated with the preparation of an [I.S. 465](#) report³ without the requirement for Stage 1 approval in specific and limited circumstances

² Department of Housing, Local Government and Heritage - [Circular H](#)³ I.S. 465 is a standardised protocol developed by the NSAI for determining whether a building has been damaged by concrete blocks containing certain excessive amounts of deleterious materials (such as mica). An engineer's report in accordance with this standard is required to demonstrate that the dwelling has been damaged.

³ I.S. 465 is a standardised protocol developed by the NSAI for determining whether a building has been damaged by concrete blocks containing certain excessive amounts of deleterious materials (such as mica).

2. Provision for the inclusion of up to €5,555 as an allowable cost under the scheme for essential immediate repair works on an impacted home in specific circumstances
3. An increase in the value of stage payments which can be recouped to a homeowner from 75% to 85% of the allowable cost prior to final stage payment

Building Regulations

The design and construction of buildings in Ireland is regulated under the Building Control Acts 1990 to 2014 which provide for the making of Building Regulations and Building Control Regulations.

The [Building Regulations](#) 1997-2017 are set out in 12 parts (classified as Parts A to M) and set minimum performance standards that a building must achieve. [Technical Guidance Documents](#) are published to accompany each part of the Building Regulations indicating how the requirements of that part can be achieved in practice.

The [Building Control Regulations](#) 1997 to 2018 require owners, builders, and registered construction professionals to demonstrate through the Statutory Register of Building Control Activity that the works or building concerned have been designed and constructed in compliance with Building Regulations. These apply generally to new buildings and to existing buildings which undergo an extension, a material alteration or a material change of use.

The [Building Control \(Amendment\) Regulations 2014](#) (BCAR) (S.I. No 9 of 2014) came into operation on 1 March 2014. These regulations were introduced as part of a response to cases of building failures and non-compliance with Building Regulations. As well as new dwellings, and extensions of a certain size, the regulations apply to works which require a fire safety certificate. They also apply to some developments involving a material change of use.

Certifiers

The regulations introduced two different certifiers – a design certifier and an assigned certifier. A certifier must be a registered architect, a chartered engineer or a registered building surveyor.

Documents required

Several documents are required in the BCAR scheme. For instance, the regulations introduced a new form of Commencement Notice, which must be accompanied by, among other items, plans, drawings, and calculations, which show that the building will comply with the relevant standards imposed by the regulations. This notice is submitted via an online Building Control Management System, managed by local authorities.

The BCAR introduced a requirement for the following certificates:⁴

An engineer's report in accordance with this standard is required to demonstrate that the dwelling has been damaged.

⁴ The Law Society of Ireland Conveyancing Committee, '[Update on Building Control \(Amendment\) Regulations 2014](#)' provides a useful summary of BCAR.

- Certificate of Compliance (Design) – confirms that the documentation included in the schedule of the Commencement Notice complies with the Building Regulations;
- Certificate of Compliance (Undertaking by Assigned Certifier) – contains an undertaking to inspect the building or works and to coordinate the inspection work of others and to then certify on compliance with the requirements of the Second Schedule to the [Building Regulations 1997](#) (S.I. No 497 of 1997);
- Certificate of Compliance (Undertaking by Builder) – includes a confirmation that the Builder is commissioned by the building owner to undertake the works and that the builder is competent. It also includes an undertaking to cooperate with the inspection schedule;
- Certificate of Compliance on Completion (the Completion Certificate) – there are two parts to this certificate, Part A to be completed by the builder and Part B to be completed by the assigned certifier. Completion certificates must be submitted to the relevant local authority.

The [Building Control \(Amendment\) \(No. 2\) Regulations 2015](#) (S.I. No 365 of 2015) (2015 Regulations) were published following a 12-month review of the BCAR scheme. The 2015 Regulations were brought into effect on 1 September 2015.

The 2015 Regulations insert a new sub-article 9(5) into the [Building Control Regulations 1997](#) (S.I. No 496 of 1997). The new provision enables an owner of a single dwelling on a single unit development, or an extension to a dwelling, to opt out of the statutory certification process that was introduced by BCAR, to have the building works inspected and certified by a registered construction professional at relevant stages of the work.⁵ This means that the owner is not required to lodge a statutory undertaking and relevant certificates of the designer, the assigned certifier and builder, or lodge an inspection plan. It also means that the building owner is not able to register a Certificate of Compliance on Completion with the local authority.

To avail of the opt-out procedure, a building owner must declare his or her intention to do so by signing a form of 'Declaration of Intention to Opt Out of Statutory Certification'. The form must accompany the relevant documents that are to be submitted to the local authority upon commencement of the works, including the commencement notice, any requisite plans detailing compliance with the Building Regulations and the Notice of Assignment of Builder. The option to opt out of the certification process does not affect the owner's statutory obligations relating to compliance with the Building Regulations – owners are not exempted from the Building Regulations, they are simply given the option to opt out of the certification process – and the works may be made subject to inspections by the local authority, to assess compliance. The owner remains liable for any remedial work that may be required to bring the works up to standard.⁶

⁵ See Mason Hayes and Curran, (2015). '[Changes to the Building Control \(Amendment\) Regulations 2014](#)'.

⁶ Department of Housing, Planning and Local Government, [Information Note for Owners of new dwellings and extensions who opt out of Statutory Certification for building control purposes](#).

Background and policy context

This section looks at the background and policy context to the Bill. Focusing on key reports and the evolution of the Defective Concrete Blocks Grant Scheme, it is structured as follows:

1. Report of the Expert Panel on Concrete Blocks (2017)
2. Defective Concrete Blocks Grant Schemes (original scheme in 2020 and enhanced scheme in 2021)
3. Report of the Working Group on the Defective Concrete Blocks Grant Scheme (2021)
4. Society of Chartered Surveyors Ireland (SCSI) costings reports (2021 and 2022)
5. Report of the Expert Group on the Enhanced Concrete Blocks Grant Scheme (2022)

The timeline below summaries selected key developments related to the Bill before each of the items listed at 1-5 above are discussed in more detail.

Table 5: Timeline of selected key policy developments regarding defective concrete blocks

Date	Event
2017	<u>Report of the Expert Panel on Concrete Blocks</u> : an Expert Panel was commissioned by the Government in 2016 to quantify the number of affected dwellings, establish the nature of the problem and investigate options for remediation. Its report included recommendations aimed at both providing technical guidance to homeowners and preventing the problem from recurring.
2020	<u>Defective Concrete Block Grant Scheme</u> : the Defective Concrete Blocks Grant Scheme was signed into law under S.I. No. 25 of 2020 on the 31 January 2020 to support affected homeowners in Donegal and Mayo. The scheme covers up to 90% of the costs associated with the remediation of the dwelling and is administered by Donegal and Mayo County Councils. It first opened for applications at the end of June 2020.
2021	<u>Enhanced Defective Concrete Block Grant Scheme</u> : on the 30th November 2021, the Government made a decision to proceed with short term changes to the current Defective Concrete Blocks Grant Scheme which would enhance the supports available for homeowners, remove the perceived financial barrier to scheme entry and also improve overall governance of the scheme.
2021	<u>SCSI Guide to House Rebuilding Costs for Insurance Purposes 2021</u> : this guide is intended to assist homeowners in adequately insuring their homes by providing rebuilding costs for insurance purposes. It included a rebuild cost for a home on new foundations to 2021 building standards in the north-west. The 2021 guide informed the original Defective Concrete Blocks Scheme.

2021	<u>Report from the Working Group on the Defective Concrete Blocks Grant Scheme</u> : the Minister for Housing, Local Government and Heritage requested that a time bound working group, with representatives from his Department, the relevant local authorities and homeowner representative groups, be established to review and address any outstanding issues in relation to the operation of the Defective Concrete Blocks Grant Scheme. Its report included recommendations for consideration as improvements to the Scheme in the immediate term.
2022	<u>SCSI Report on Construction Costs for the Defective Concrete Blocks Grant Scheme</u> : This independent cost report for the rebuilding and remediation of homes affected by defective concrete blocks in the north-west of the country arose from the Government decision (on 30 November 2021) to establish a 100% redress scheme for affected homeowners. It provides average construction costs on a per square foot / metre basis for eight different house types.
2022	<u>Report of the Expert Group on the Enhanced Concrete Blocks Grant Scheme</u> : The Minister for Housing, Local Government and Heritage, asked that a high level Expert Group be established to consider the technical issues which need to be resolved and advise the Minister and his Department accordingly. The Expert Group reported in March 2022 on their work and recommendations to date in relation to these issues.

Source: L&RS researchers.

Report of the Expert Panel on Concrete Blocks

The Expert Panel on Concrete Blocks was established by the Department of Housing, Planning and Local Government⁷ in 2016 to investigate problems that emerged in the concrete blockwork of certain dwellings in counties Donegal and Mayo. The purpose of the Expert Panel was to assist “the parties directly involved in their efforts to reach a satisfactory resolution to these matters”.⁸ The Terms of Reference of the Expert Panel required it to:

- identify the number of private dwellings affected,
- establish the nature of the problem,
- outline technical solutions, and
- submit a report to the then Minister of Housing and Urban Renewal.⁹

⁷ The department has since been renamed the [Department of Housing, Local Government and Heritage](#).

⁸ Department of Housing, Local Government and Heritage (2017) *Report of the Expert Panel on Concrete Blocks*. Available at <https://assets.gov.ie/100218/78fd81fe-ab44-441b-ba10-6a9df4434c48.pdf>

⁹ The full Terms of Reference of the Expert Panel are shown in Chapter 1 of its [report](#).

The [Report of the Expert Panel on Concrete Blocks](#) was published in June 2017. It explains (on page 2) that the Expert Panel met with “several stakeholders and groups who were in a position to contribute to the final report” as part of the consultation process. In particular, the Expert Panel met with representatives from the Mica Action Group in Donegal and the Mayo Pyrite Group.

Recommendations in the Report of the Expert Panel on Concrete Blocks

When the Expert Panel published its findings in 2017, it concluded (on page 39) that the problems in Donegal were predominantly due to excessive muscovite mica in the aggregate of concrete blocks. It was estimated that up to 4,800 private dwellings might be affected. The disintegrated blocks were found to have moisture ingress and a reduced capacity to withstand freeze-thaw action.¹⁰ In Mayo, where around 345 dwellings were thought to be affected, the problematic mineral was predominantly pyrite (discussed on page 46).¹¹

The [Report of the Expert Panel on Concrete Blocks](#) notes that while many dwellings were affected, the problems appeared to be largely confined to the Inishowen and Letterkenny areas in County Donegal and the north-western area of County Mayo. Problems may have been exacerbated by extreme weather in 2009-2010.

The report found a variety of affected properties in those counties. The dwellings impacted were within estates, one off rural type houses and a mix of contract and self-build, with construction ranging from 1984 to 2011. The report states that the dwellings affected in both Counties Donegal and Mayo consisted of a mixture of traditional build, single storey, dormer, two storey detached and semi-detached houses.

A disclaimer at the beginning of the report explains the following regarding technical information and the Expert Panel's remit in relation to apportioning responsibility:

“The Expert Panel did not commission or carry out any tests on buildings or building materials itself and was dependent on technical information supplied directly to it by homeowners and concerned parties. The Panel have no responsibility for the accuracy of the technical reports and information received by it and the Report should be read in that light. It was not part of the Panel's remit to apportion responsibility for any building defects drawn to its attention and it has not done so”.

The report put forward a number of technical solutions for the problems encountered in Donegal and Mayo. Given that the Expert Panel's remit was one of a technical nature, its eight recommendations have been listed in two broad categories (see Table 6):

1. Providing technical guidance to homeowners (2 recommendations); and
2. Preventing the problem from recurring again (6 recommendations).

¹⁰ St John, T. (2022) *Lessons learned: Mica in concrete blocks*. 31 March 2022. Available at <https://www.geplus.co.uk/opinion/lessons-learned-mica-in-concrete-blocks-31-03-2022/>

¹¹ St John, T. (2022) *Lessons learned: Mica in concrete blocks*. 31 March 2022. Available at <https://www.geplus.co.uk/opinion/lessons-learned-mica-in-concrete-blocks-31-03-2022/>

Table 6: Recommendations in the Report of the Expert Panel on Concrete Blocks (2017)

Recommendations aimed at providing technical guidance to homeowners (2)	Action
<p>Recommendation 1 – Testing and Categorisation Protocol</p> <p>The Panel recommends that a simple standardised protocol should be developed to:</p> <ul style="list-style-type: none"> (a) assess and categorise the damage; (b) establish the extent of the problem; (c) identify the scope of any testing required; and (d) aid selection of an appropriate remedial solution. 	National Standards Authority of Ireland
<p>Recommendation 2 - Competent Professional Oversight</p> <p>The Panel recommends that:</p> <ul style="list-style-type: none"> (a) the homeowners seek the advice of a competent professional where concerns regarding Health and Safety arise, and (b) the design and inspection of any proposed remedial works to affected dwellings be monitored by a competent professional. 	All affected parties
Recommendations aimed at preventing the problem from recurring again (6)	Action
<p>Recommendation 3 – Strengthen Building Control Arrangements</p> <p>The Panel recommends that the opt-out facility afforded to homeowners of a new single dwelling, on a single unit development as provided by the Building Control (Amendment) (No. 2) Regulations 2015 (S.I. No. 365 of 2015) should be reviewed with a view to removing that provision.</p>	Department of Housing, Planning, Community and Local Government
<p>Recommendation 4 – Building Control Inspections</p> <p>The Panel recommends that the number of inspections by building control be increased to support greater compliance with the Building Regulations.</p>	Local authorities, County and City Management Association
<p>Recommendation 5 – Strengthen market surveillance of construction products</p> <p>The Panel recommends that market surveillance authorities be sufficiently resourced with dedicated units which would have, among other things, available expertise in the extractive and manufacturing sectors to provide more effective enforcement nationwide of construction products legislation.</p>	Department of Housing, Planning, Community and Local Government, local authorities.

Recommendation 6 – Review Part C of the Building Regulations The Panel recommends that a full review of Part C (Site Preparation and Resistance to Moisture) of the Building Regulations and the associated Technical Guidance Document C be undertaken.	Department of Housing, Planning, Community and Local Government
Recommendation 7 – Minimum competency scheme for construction skillsets and Industry awareness initiatives The Panel recommends that: (a) a minimum competency scheme be established by industry to ensure best practice in external render application; (b) education and training in the form of detailed industry guidance, seminars etc. be developed in support of good practice in house construction and the correct specification of construction products.	Solas, Construction Industry Federation, Irish Home Builders Association, Irish Concrete Federation.
Recommendation 8 – Further Research The Panel recommends that due to legacy failures involving construction products, in spite of the current knowledge, further research should be undertaken to gain a greater understanding of the effects of pyrite and excessive amounts of muscovite mica in concrete blocks in order to avoid future adverse effects in buildings.	Irish Centre for Research in Applied Geosciences (iCRAG)

Source: Reproduced from the [Report of the Expert Panel on Concrete Blocks](#) (2017)

In response to a parliamentary question ([15 January 2019](#)), the then Minister of State at the Department of Housing, Planning and Local Government, Damien English TD, explained that the Department prioritised the implementation of recommendations 1 and 2 above:

“With regard to Recommendation 1, the National Standards Authority of Ireland (NSAI) established a Technical Committee to scope and fast track the development of a standardised protocol. The standardised protocol will inform the course of action in relation to remedial works for all affected householders.

The standardised protocol was published by the NSAI on 13 November 2018 and ‘I.S. 465:2018 - Assessment, testing and categorisation of damaged buildings incorporating concrete blocks containing certain deleterious materials’, is available at www.nsai.ie.

The standard can be used to assess and categorise the damage in properties where the concrete blocks are suspected to contain the minerals mica or pyrite. Previously, there was no common way for engineers or homeowners to assess the damage caused by defective concrete blocks, in order to decide what, if any, remedial work could be carried out.

This standard:

1. establishes a protocol for assessing and determining whether a building has been damaged by concrete blocks containing certain excessive amounts of deleterious materials (free or unbound muscovite mica, or aggregate with potentially deleterious quantities of pyrite);

2. describes methods for establishing the extent of the problem;
3. describes the scope of any testing required; and
4. categorises buildings, in accordance with this Standard, providing competent persons with guidance on the appropriate measures to be taken.

With regard to Recommendation 2, my Department has been in contact with Engineers Ireland in relation to the establishment of a register of competent engineers for homeowners/affected parties' reference. Engineers Ireland has provided assurance that they are in the process of finalising measures to establish such a register now that the standardised protocol is in place. Engineers Ireland have recently issued a call for suitably qualified engineers to participate on the register".¹²

The NSAI, the subject of recommendation 1 above which called on it to develop a simple standardised protocol to assess and categorise the damage in affected properties, welcomed the publication of the Expert Group report in June 2017. In a press release at the time, the NSAI noted that:

"The Report of the Expert Panel on Concrete Blocks found that while standards existed for both the constituent materials and the manufacture of concrete blocks, significant deviation from those standards led to an excessive amount of deficient minerals, namely Mica and Pyrite, in the aggregate used to manufacture the blocks. It is understood that all of the affected houses were built between 1999 and 2010."¹³

The NSAI Chief Executive ([Geraldine Larkin](#)) was [quoted](#) as saying she hoped that calls from the Expert Panel for more meaningful on-site inspections and enforcement by building control personnel would usher in a new era of stronger building control enforcement. Furthermore, the NSAI noted that the Expert Panel report highlights the serious problems that can be encountered when standards are ignored and that while the masonry and aggregate standards in Ireland during the period in question were robust, standards are only of value if they are applied.

In the [view of the NSAI](#), cases where these standards were not being applied was a key issue, while ensuring standards are applied requires a robust and effective building control system. Standards have been strengthened in the years since publication of the [Report of the Expert Panel on Concrete Blocks](#), with the NSAI involved in this process:

"Since July 2013, by law, concrete block manufacturers must CE Mark and conduct prescribed tests on their products. Building control and market surveillance authorities have the power to carry out investigations on these blocks at any time.

¹² "Written answers - Expert Panel on Concrete Blocks". Minister of State at the Department of Housing, Planning and Local Government, Damien English TD. 15 January 2019. Available at <https://www.oireachtas.ie/en/debates/question/2019-01-15/63/>

¹³ National Standards Authority of Ireland (n.d.) *NSAI Welcomes Publication of Mica Expert Group Report*. Available at <https://www.nsai.ie/about/news/nsai-welcomes-publication-of-mica-expert-group-report/>

Furthermore, the introduction of new building control regulations in 2014 brought more stringent requirements for the construction sector to ensure that the complex array of standards and technical information that experts develop at NSAI are properly applied in practice”.¹⁴

As highlighted above, the Expert Panel recommended that a standardised damage assessment, testing and damage categorisation approach be established. In this context, the National Standards Authority of Ireland published IS 465¹⁵ in 2018. The standard sets out a protocol for determining if excessive unbound mica and/or pyrite has caused damage to concrete blocks.¹⁶

Defective Concrete Blocks Grant Scheme

Original grant scheme

The Defective Concrete Blocks Grant Scheme was signed into law under [S.I. No. 25 of 2020](#) on the 31 January 2020. The scheme aims to help ordinary homeowners to remediate defects to their principal private residence and return their homes to the condition they would have been in had they not been built with defective concrete blocks. It was launched in January 2020 and opened for applications at the end of June 2020. The scheme applies only to dwellings in Donegal and Mayo and is administered by Donegal and Mayo County Councils.

In May 2020, the Department of Housing, Local Government and Heritage issued [administrative guidelines](#) for Donegal and Mayo County Councils. The purpose of the guidelines is to promote and support a consistent approach to the operation and administration of the Defective Concrete Blocks Grant Scheme by the relevant local authorities.

The Department of Housing, Local Government and Heritage arranged for the NSAI to prepare and publish a standardised protocol for the assessment, testing and categorisation of damaged buildings incorporating concrete blocks containing certain deleterious materials. The [I.S. 465:2018](#) protocol was published in November 2018 to allow for a consistent assessment to be undertaken to determine whether a building has been damaged (see Appendix 1).

An engineer’s report in accordance with IS 465:2018 is required to demonstrate that the dwelling has been damaged. This report must be carried out by an engineer who has the necessary professional experience and specialist training and Engineers Ireland have established a [register](#) of competent engineers for homeowners/affected parties’ reference.

¹⁴ National Standards Authority of Ireland (n.d.) NSAI Welcomes Publication of Mica Expert Group Report. Available at <https://www.nsai.ie/about/news/nsai-welcomes-publication-of-mica-expert-group-report/>

¹⁵ IS 465 standard: [I.S. 465:2018+A1:2020 Assessment, testing and categorisation of damaged buildings incorporating concrete blocks containing certain deleterious materials and Amendment \(standards.ie\)](#)

¹⁶ St John, T. (2022) *Lessons learned: Mica in concrete blocks*. 31 March 2022. Available at <https://www.geplus.co.uk/opinion/lessons-learned-mica-in-concrete-blocks-31-03-2022/>

The level of funding available is subject to the maximum limits as shown in Table 7 depending on the remedial option recommended in the engineer's report or 90% of the eligible costs, whichever is the lesser.

Table 7: Remediation Options

Remedial Option	Remedial Works Description	Maximum Approved Cost ¹	Maximum Grant Payable ^{1,2}
Option 1	Demolish entire dwelling to foundation level and rebuild.	€275,000	€247,500
Option 2	Demolish and rebuild external walls (both outer and inner leafs) down to foundation on a phased basis and re-render.	€220,000	€198,000
Option 3	Demolish and rebuild external walls (both outer and internal leafs) down to top of rising wall on a phased basis and re-render.	€210,000	€189,000
Option 4	Demolish and rebuild external walls (outer leaf only) down to top of rising wall on a phased basis and re-render	€75,000	€67,500
Option 5	Demolish and rebuild outer leaf of affected walls only and re-render.	€55,000	€49,500

1. All costs are inclusive of VAT.

2. Not to exceed 90% of the maximum approved cost or, 90% of actual cost of the qualifying works, whichever is the lesser.

Source: DHLGH

Enhanced scheme

The Government agreed on [30 November 2021](#) to an enhanced grant scheme which was informed by the report and recommendations of the [Working Group on the Defective Concrete Blocks Grant Scheme](#). The main changes to the scheme include the following:

- The current 90% maximum grant will be increased to a 100% grant for all remediation options 1-5.
- The maximum grant cap for option 1 (demolition and rebuild) will be increased to €420,000 from €247,500.
- The grant calculation methodology will be based on the cost per square foot (psf) of rebuilding the existing home, with costings to be set by the DHLGH in consultation with the SCSi.

- A revised application process to be introduced which will only require the homeowner to submit an initial 'Building Condition Assessment' at minimal cost recoupable on entry to the Scheme.
- Alternative accommodation and storage costs will be included, subject to a maximum of €20,000.
- In relation to works carried out under remediation options 2-5, a second grant option, will be available for such a home in the future if blockwork which was not removed as part of the initial remediation work subsequently proves defective in accordance with the IS:465 standard.
- A new independent appeals process will be introduced.
- The Scheme will be extended beyond the current scope of Principle Private Residences only, to also cover Residential Tenancies Board (RTB) registered rental properties, subject to the introduction of a clawback mechanism upon re-sale within a set time period depending on the remediation option use.

The new level of financial assistance available under the enhanced scheme is set out in Table 8 below.

Table 8: Remediation Options

Remedial Option	Remedial Works Description	Maximum Grant Payable (as of November 2021)
Option 1	Demolish entire dwelling to foundation level and rebuild.	€420,000
Option 2	Demolish and rebuild external walls (both outer and inner leafs) down to foundation on a phased basis and re-render.	Currently €220,000 but will rise after DHLGH/SCSI Review
Option 3	Demolish and rebuild external walls (both outer and internal leafs) down to top of rising wall on a phased basis and re-render.	Currently €210,000 but will rise after DHLGH/SCSI Review
Option 4	Demolish and rebuild external walls (outer leaf only) down to top of rising wall on a phased basis and re-render	Currently €75,000 but will rise after DHLGH/SCSI Review
Option 5	Demolish and rebuild outer leaf of affected walls only and re-render.	Currently €55,000 but will rise after DHLGH/SCSI Review

Source: [DHLGH](#)

The Government directed that the cost calculation methodology (based on a cost per square foot) should be updated in consultation with the SCSI. The Department of Housing, Local Government and Heritage invited SCSI to provide construction cost information with the SCSI agreeing to produce an independent, standalone construction cost report for the demolition and rebuilding of homes affected by defective concrete blocks (option 1), and to propose a cost methodology for the partial remediation (options 2-5).

The SCSi report was published on 3 March 2022 (see section below) and the Minister requested the Expert Working Group on the implementation of the Defective Concrete Block Scheme to analyse the report and make recommendations on how to operationalise its findings.

Report from the Working Group on the Defective Concrete Blocks Grant Scheme

In response to concerns being raised by homeowners in Donegal and Mayo in regard to the Defective Concrete Blocks Grant Scheme, the Minister for Housing, Local Government and Heritage requested that a time bound working group, with representatives from his Department, the relevant local authorities and homeowner representative groups, be established to review and address any outstanding issues in relation to the operation of the Defective Concrete Blocks Grant Scheme.

The working group was required to complete its work and submit a report with recommendations to the Minister for Housing, Local Government and Heritage. The Group was originally required to report to the Minister by the 31st July, 2021. However, this date was extended to the 30th September, 2021 at the request of homeowner representatives. During this extended period the Housing Agency facilitated technical financial and administrative analysis of some key issues with homeowners.

The aim of the working group report was to inform the government's consideration of changes to the Defective Concrete Blocks Grant scheme. The Working Group was tasked with considering the issues which had been raised in relation to the Defective Concrete Blocks Grant Scheme, which included items such as grant caps, homeowner contributions, engineering costs, and allowable costs.

The recommendations put forward by the Group for consideration as improvements to the Scheme in the immediate term are shown in Table 9 below.

Table 9: Working Group Recommendations

Item	Issue	Recommendation
1.	Exempt Development Status	Put in place regulations to confer exempt development status on like for like replacement of DCB homes.
2.	Financial Barrier to Scheme Entry	Revise application processes so the homeowner is only required to submit a building condition assessment (likely cost €500-750), similar to the PRB scheme, and thereafter the Housing Agency, on behalf of Local Authorities takes on the assessment, testing and categorisation of homes and recommendation of the appropriate remediation option to the LA.
3.	Methodology for Grant Calculation	To be based on a cost per square foot, discounted as appropriate, to exclude the cost of foundations, betterment, salvage etc. SCSi to be asked to determine the appropriate cost per square foot using their existing rebuild cost indicator for insurance purposes.

4.	Alternative Accommodation Costs	Agreed in principle but quantum yet agreed.
5.	Septic Tanks	Allow subject to an overall expenditure cap of €2,000.
6.	Expenditure Caps	Increase the current expenditure caps by the agreed alternative accommodation costs for each of the 5 remediation options.
7.	State Guarantee	Allow a second grant application for remediation options 2, 3, 4 and 5 if the original blockwork retained in the home after the first remediation subsequently requires replacement. The second grant option to go with the home rather than the homeowner.
8.	Percentage Grant Awarded	Allow a 100% grant, subject to the revised expenditure caps, for each of the remediation options 2, 3, 4 and 5. These remediation options have some equivalence with the Pyrite Remediation Scheme as they involve repairs to the existing home. Option 1 involves complete demolition to foundation level and rebuild of the home.

Source: [DHLGH](#)

SCSI costings reports

The Society of Chartered Surveyors Ireland (SCSI) is the independent professional body for chartered surveyors working and practicing in Ireland and is a registered charity. There have been two SCSI costings reports related to this Bill: a) SCSI Guide to House Rebuilding Costs for Insurance Purposes (2021) and b) SCSI report on Construction Costs (2022).

SCSI Guide to House Rebuilding Costs for Insurance Purposes (2021)

The SCSI publishes annual guidelines on rebuilding costs for the purposes of informing decisions in relation to the provision of insurance cover for dwellings. The [SCSI Guide to House Rebuilding Costs for Insurance Purposes 2021](#) informed the original Defective Concrete Blocks Scheme:

“The current indicative cost psf has been set by Government based on advice from the Department which has been informed by its QS team based on first-hand experience, by a review of remediation cost plans received from homeowners which are Stage 2 approved

under the scheme and by the SCSi Guide to House Rebuilding Costs for Insurance Purposes 2021".¹⁷

While the DHLGH has noted the general value of the 2021 guide in relation to rebuild construction costs, it explains that these guidelines are not suitable for directly transposing onto the DCB grant calculation. This largely relates to the differing house types involved in the report (which focuses on estate type houses built since the 1960s) and typical applicants under the scheme, and also certain rebuild specifications (i.e. the inclusion of new foundations to current building standards in the report):

"It is the view of the Department that the SCSi guide is fair and reasonable and helpful in framing rebuild construction costs. The published 2021 SCSi guide estimated that the appropriate rebuild cost for the North West is an average €138 psf. This covers the cost of rebuilding a home on new foundations to 2021 building standards.

It is important to acknowledge however that the SCSi guide is not an exact match for DCB grant calculation purposes.

The guide is based on typical speculatively built, estate type house across 6 house types ranging in size from 753 – 1,571 sq.ft. with average rebuild costs psf ranging from €145 to €134.

- Many of the properties eligible under the DCB Scheme are likely to be one off houses in rural settings.

The SCSi guide relates to costs for the re-build of homes on new foundations to current building standards.

- Foundations do not require replacement in DCB impacted homes and the costs adopted for the grant scheme must reflect this and also that homes are grant aided for replacement on a like for like basis.
- Under DCB, homeowners are free to rebuild homes and upgrade to current building standards but the marginal cost is not reflected in the grant available and must be borne by homeowners. SEAI grants are however available to homeowners to help defray such costs, where incurred".¹⁸

In addition, the DHGLH [highlights](#) that the economies of scale associated with housebuilding, which are evident even across a small range of house types and sizes within the SCSi guide, are also important for it in the context of setting fair and reasonable grant rates for homeowners.

¹⁷ Department of Housing, Local Government and Heritage (2022) *Terms of Reference for Society of Chartered Surveyors Ireland (SCSi) Report on Construction Costs for the Defective Concrete Block Scheme*. 07 February 2022. Available at <https://assets.gov.ie/215354/e9e1dac4-0033-4c23-9aa9-b87309898e46.pdf>

¹⁸ Department of Housing, Local Government and Heritage (2022) *Terms of Reference for Society of Chartered Surveyors Ireland (SCSi) Report on Construction Costs for the Defective Concrete Block Scheme*. 07 February 2022. Available at <https://assets.gov.ie/215354/e9e1dac4-0033-4c23-9aa9-b87309898e46.pdf>

Subject to these key points of divergence, the actual estimated rebuild costs within the 2021 SCSi guide for the six house types considered are reproduced from the DHLGH in Table 10.

Table 10: Actual estimated rebuild costs within the 2021 SCSi guide

House Type	Sq. Mts.	Sq. Ft.	Advice on Rebuild Cost	Average Cost PSF
2 Bed Terrace	70	753.47	€109,550	€145.39
3 Bed Terrace	95	1,022.57	€140,410	€137.31
3 Bed Semi-Detached	95	1,022.57	€141,645	€138.52
4 Bed Semi-Detached	118	1,270.14	€174,404	€137.31
4 Bed Bungalow	118	1,270.14	€175,938	€138.52
4 Bed Bungalow	146	1,571.52	€210,386	€133.87
Average Cost psf				€138.49

Source: Department of Housing, Local Government and Heritage (2022) *Terms of Reference for Society of Chartered Surveyors Ireland (SCSi) Report on Construction Costs for the Defective Concrete Block Scheme*. 07 February 2022. Available at <https://assets.gov.ie/215354/e9e1dac4-0033-4c23-9aa9-b87309898e46.pdf>

SCSi Report on Construction Costs for the Defective Concrete Blocks Grant Scheme (2022)

The SCSi was asked by the DHLGH to provide construction cost information on which to base and inform the Government's enhanced scheme. In response, the SCSi agreed to produce "an independent, standalone construction cost report for the demolition and rebuilding of homes affected by defective concrete blocks (option 1), and to propose a cost methodology for the partial remediation (options 2-5)".¹⁹ The level of financial assistance under the scheme is determined by reference to this series of options for remediation referenced by SCSi (see Table 11).

¹⁹ Society of Chartered Surveyors Ireland (2022) *SCSi Report on Construction Costs for the Defective Concrete Blocks Grant Scheme*. Available at <https://scsi.ie/DCB-Construction-Costs/>

Table 11: Grant amount payable per remedial option (as outlined by DHLGH, November 2021)

Remedial Option	Remedial Option Description	Maximum Grant Payable (as of November 2021)
Option 1	Demolish entire dwelling to foundation level and rebuild.	€420,000
Option 2	Demolish and rebuild external walls (both outer and inner leafs) down to foundation on a phased basis and re-render.	Currently €220,000 but will rise after DHLGH/SCSI Review
Option 3	Demolish and rebuild external walls (both outer and internal leafs) down to top of rising wall on a phased basis and re-render.	Currently €210,000 but will rise after DHLGH/SCSI Review
Option 4	Demolish and rebuild external walls (outer leaf only) down to top of rising wall on a phased basis and re-render.	Currently €75,000 but will rise after DHLGH/SCSI Review
Option 5	Demolish and rebuild outer leaf of affected walls only and re-render.	Currently €55,000 but will rise after DHLGH/SCSI Review

Source: Department of Housing, Local Government and Heritage (2021) [Defective Concrete Blocks Grant Scheme: Your Questions Answered](#) (30 November 2021).

Notes: All costs are inclusive of VAT.

The 2022 SCSI report is based on the parameters of the Defective Concrete Blocks Grant Scheme as [announced](#) on 30 November 2021. A number of changes to the scheme were outlined in that announcement including:

“The grant calculation methodology will be based on the cost per square foot (psf) of rebuilding the existing home, with costings to be set by the Department of Housing, Local Government and Heritage in consultation with the Society of Chartered Surveyors Ireland. An indicative rate of €145 per square foot for the first 1,000 sq foot based on SCSI methodology with a sliding scale thereafter”.²⁰

[Terms of Reference](#) for the SCSI report were published by the DHLGH in February 2022. These explain the relationship between the SCSI Report on Construction Costs for the Defective Concrete Blocks Grant Scheme (2022) and the SCSI Guide to House Rebuilding Costs for Insurance Purposes 2021, in addition to explaining why the former was required:

²⁰ Department of Housing, Local Government and Heritage press release, [Minister O'Brien announces enhancements to the Defective Concrete Block Scheme](#) (30 November 2021)

“The current indicative cost psf has been set by Government based on advice from the Department which has been informed by its QS team based on first-hand experience, by a review of remediation cost plans received from homeowners which are Stage 2 approved under the scheme and by the SCSI Guide to House Rebuilding Costs for Insurance Purposes 2021.

Whilst the SCSI Guide to House Rebuilding Costs for Insurance Purposes 2021 has been of some assistance to date, it is acknowledged by the Department that by reason of the key points of divergence between the Guide and the requirements of the DCB Scheme [set out in Appendix 2 of the Terms of Reference] the present Report is required.

The Government has therefore directed that the cost calculation methodology (based on a cost per square foot) is to be updated in consultation with SCSI and that SCSI would be asked to provide a Report detailing an appropriate and up to date cost calculation methodology for remediation works under Option 1 together with an appropriate cost calculation methodology for remediation works under each of Options 2-5.

In furtherance of that work, the SCSI will provide a Report to the Department, on an independent and objective basis, upon the following issues:

- (i) Up to date construction costs in the North West for the demolition and rebuild (Option 1) of a variety of home types and sizes which have been impacted by defective concrete blocks (see Appendix 1). The costs will be dual reported on measurement in both square metres and square feet;
- (ii) an appropriate cost calculation methodology for the costing of remediation Options 2 – 5 under the Defective Concrete Blocks Grant Scheme and key issues for consideration in this regard (see Appendix 1);
- (iii) the Department will require engagement with the SCSI on an ongoing basis to provide updated information on construction costs changes so as to assist the Department in annual reviews of the level of grant assistance to be made available to homeowners under each of the remediation Options 1-5.”²¹

In March 2022, the SCSI published its independent cost [report](#) for the rebuilding and remediation of homes affected by defective concrete blocks in the north west of the country.²² The accompanying press release explains that:

“The report provides average construction costs on a per square metre for eight different house types, including estate type houses as well as one-off rural homes. The report is

²¹ Department of Housing, Local Government and Heritage (2022) *Terms of Reference for Society of Chartered Surveyors Ireland (SCSI) Report on Construction Costs for the Defective Concrete Block Scheme*. 07 February 2022. Available at <https://assets.gov.ie/215354/e9e1dac4-0033-4c23-9aa9-b87309898e46.pdf>

²² Society of Chartered Surveyors Ireland (2022) *SCSI Report on Construction Costs for the Defective Concrete Blocks Grant Scheme*. Available at <https://scsi.ie/DCB-Construction-Costs/>

based on the parameters of the Government's Defective Concrete Blocks Grant Scheme announced on November 30 2021 and the terms of reference of the report, which building regulations apply, exclusion of foundations".²³

The [report](#) notes (on page 3) that the SCSi has no role in setting the parameters of the scheme (e.g., which building regulations apply, exclusion of foundations, etc.) and has no role in the setting of the grant. The report was drafted by SCSi volunteer members including surveyors practising in the north-west region with professional experience of homes impacted by defective concrete blocks.

The [report](#) outlines its approach and methodology in some detail. The [report](#) reflects up to date (at the time of publication) construction costs for the north west, which were to be reviewed on an annual basis.²⁴ Table 12 below clarifies that certain costs are explicitly included or not included in the 2022 SCSi report.

Table 12: Costs included and not included in 2022 SCSi report

Costs do <u>not</u> include:	The SCSi Construction Cost Report as set out in the Terms of Reference agreed by the DHLGH includes the costs for:
New foundations.	Demolition and reconstruction costs.
A-rated/NZEB homes	Concrete path around the house.
Contents such as carpets, curtains, loose furniture, domestic appliances, etc.	Disconnection and reconnection of utilities.
Outbuildings, garages, boundary walls, driveways, septic tanks, etc.	Making good to driveway and garden.
	Professional fees.
	VAT at 13.5% on building costs and 23% on professional fees.

Source: Society of Chartered Surveyors Ireland (2022) *SCSi Report On Construction Costs For The Defective Concrete Blocks Grant Scheme*. Available at https://scsi.ie/wp-content/uploads/2022/03/SCSi_ConcreteBlocksGrantScheme01.03.pdf

As previously noted, the SCSi produced its report within the parameters of the current scheme. As such, it provided construction costs for rebuilding homes at February 2022 material and labour rates, but at pre-2008 Building Regulations. The report provides average construction costs on a per square foot / metre basis for eight different house types, including estate type houses as well

²³ Society of Chartered Surveyors Ireland (2022) *SCSi Hopes New Report Will Contribute To Resolution Of Defective Block Issue*. Press release 3 March 2022. Available at <https://scsi.ie/scsi-hopes-new-report-will-contribute-to-resolution-of-defective-block-issue/>

²⁴ Society of Chartered Surveyors Ireland (2022) *SCSi Hopes New Report Will Contribute To Resolution Of Defective Block Issue*. Press release 3 March 2022.

as one-off rural homes that are affected by the defective concrete blocks. The report further explains that:

“In agreeing to provide an independent report on the real cost of remediation (full or partial) under the Government grant scheme, the SCSI sought specific technical details regarding the items that should be costed, for example specification assumptions given under the terms of the announced grant scheme. Full demolish and rebuild (remediation option 1) costs were calculated on a total loss situation; however, foundations are retained for the costing exercise. The pricing schedules used to gather construction cost information were issued to Chartered Quantity Surveyors²⁵ based in the North West, with expertise within residential development. To ensure the most up-to-date and relevant data, cost information was collected in February 2022 from Chartered Quantity Surveyor members practising in Donegal, Mayo, Galway, Sligo, Roscommon, Monaghan and Cavan. The construction cost information returned to the SCSI was analysed by an expert working group consisting of Chartered Building Surveyors and Chartered Quantity Surveyors to produce the area basis in Table 3” [reproduced below in Table 13].

Table 13: Average rebuilding costs – priced at 2022 material and labour rates, with pre-2008 Building Regulations

Approximate house size in square metres	2 bed terrace estate house (88sqm)	3 bed semi-detached estate house (98sqm)	4 bed semi-detached estate house (113sqm)	4 bed detached estate house (113sqm)	4 bed single rural bungalow (180sqm)	4 bed single rural dormer (195sqm)	4 bed single rural 2 storey (210sqm)	5+ bed single rural 2 storey (270sqm)
Estimate rebuild cost February 2022	€149,688	€165,620	€193,456	€200,688	€317,880	€308,685	€339,150	€421,470
Average rebuild costs per square metre	€1,701	€1,690	€1,712	€1,776	€1,766	€1,583	€1,615	€1,561
Average rebuild costs per square foot	€158	€157	€159	€165	€164	€147	€150	€145

Source: Society of Chartered Surveyors Ireland (2022) [SCSI Report On Construction Costs For The Defective Concrete Blocks Grant Scheme](#). Table 3 (page 9).

²⁵ The report notes the following in this respect: “All Chartered Quantity Surveyors that took part in this study are on the Statutory Register. Under the Building Control Act 2007, anyone using the protected professional title ‘Building Surveyor’ or ‘Quantity Surveyor’ must be on the Building Surveyors or Quantity Surveyors Statutory Register, respectively. Those on the Statutory Register have been assessed and confirmed as having the recognised qualifications and experience (in accordance with the criteria in the Act). Failure to be on the Statutory Register is an offence under the Building Control Act 2007, which could lead to prosecution”.

Notes: The report refers readers to Table 2 for a list of pricing assumptions and exclusions, i.e., includes demolition costs, excludes foundations, priced to pre-2008 Building Regulations.

The SCSI has committed to undertake an annual review of the construction costs contained in this Report and to provide an updated table of average rebuilding costs (shown in Table 3 of the report and reproduced above in Table 13) as required.

The Minister for Housing, Local Government and Heritage Darragh O'Brien TD welcomed the report on Construction Costs for the Defective Concrete Blocks Grant Scheme upon its publication. Noting that the SCSI report arose from the Government decision on 30 November 2021 to establish a 100% redress scheme for affected homeowners, the Minister stated:

“Having a clear, objective evidence basis for the Defective Concrete Block scheme grant was an integral part of the government’s decision in November 2021. I have said that the enhanced scheme would be based on and informed by the work of the SCSI report. The publication of the report and detailed engagement with the SCSI will now allow all stakeholders the opportunity to review its findings. I welcome the publication of the report and want to thank the SCSI and its members for their work and professionalism in developing this detailed and informative report.

I have now requested that the Expert Working Group on the implementation of the Defective Concrete Block Scheme chaired by independent engineer Paul Forde to analyse the report and make recommendations to me on how to operationalise its findings”.²⁶

The Donegal Mica Action Group, which represents certain homeowners impacted by the issue, is [reported](#) to have welcomed the report, with a spokesperson stating that when the scope of the analysis was taken into consideration, it looked like “a fair report”. According to [RTÉ](#), the group estimates that 80% of properties that will be covered by the scheme will have to be demolished and rebuilt. However, it has cautioned that there is a broader range of house types involved than the eight examples contained in the report.²⁷

Responding to a PQ on 3 March 2022 (the date of the report’s publication) the Minister noted that:

“As part of the implementation of the Government decision on changes to the enhanced scheme, the Society of Chartered Surveyors Ireland (SCSI) agreed to produce a report on up to date construction costs for the type of remediation works carried out under the scheme. I have received the SCSI report on Construction Costs for the Defective Concrete Blocks Grant Scheme, which was published today, 3 March 2022, and I have now requested that

²⁶ Department of Housing, Local Government and Heritage (2022) *Minister O'Brien welcomes publication of Society of Chartered Surveyors Ireland's Report on Construction Costs for the Defective Concrete Blocks Grant Scheme*. Press release, 3 March 2022. Available at <https://www.gov.ie/en/press-release/65be2-minister-obrien-welcomes-publication-of-society-of-chartered-surveyors-irelands-report-on-construction-costs-for-the-defective-concrete-blocks-grant-scheme/>

²⁷ McGrath, P. (2022) *Group to examine defective block cost analysis*. RTÉ News. 3 March 2022. Available at <https://www.rte.ie/news/politics/2022/0303/1284179-construction-ireland/>

the Expert Working Group on the implementation of the scheme analyse the report and make recommendations on how to operationalise its findings.

I intend to bring the final details of the scheme and the required primary legislation to Cabinet in April.”²⁸

It is estimated that the Government approved enhanced scheme will cost approximately €2.2 bn.²⁹

Report of the Expert Group on the Enhanced Defective Concrete Blocks Grant Scheme

On the 30th November 2021, the Government made a decision to proceed with short term changes to the current Defective Concrete Blocks (DCB) Grant Scheme which would enhance the supports available for homeowners, remove the perceived financial barrier to scheme entry and also improve overall governance of the scheme.

The Minister and the Attorney General asked that a high level Expert Group be established to consider the technical issues which need to be resolved and advise the Minister and his Department accordingly.

The Expert Group [reported](#) in March 2022 on their work and recommendations to date in relation to these issues. Observations in respect of a number of other longer term technical issues were also included for information. A summary of the main recommendations in relation to these items is now provided below.

Damage Threshold for Entry to the DCB Grant Scheme

Currently damage is not defined within [S.I. 25 of 2020](#) so there is no threshold within the regulations for entry to the DCB grant scheme. Government has decided that a damage threshold will be put in place for entry to the enhanced grant scheme. The expert group considered what this should be and recommended the following:

²⁸ “Written answers - Defective Building Materials”. Minister for Housing, Local Government and Heritage, Darragh O'Brien TD. 3 March 2022. Available at https://www.oireachtas.ie/en/debates/question/2022-03-03/191/#pq_191

²⁹ “Written answers - Defective Building Materials”. Minister for Housing, Local Government and Heritage, Darragh O'Brien TD. 3 March 2022. Available at https://www.oireachtas.ie/en/debates/question/2022-03-03/122/#pq_122

- The definition of the Damage Threshold initially for an application should be “a minimum of Group 2³⁰ damaged dwellings as set out in Table 1 of IS 465 with extensive pattern cracking of at least 1,5mm.”
- The Minister should allow for regular review of damage thresholds based on the findings from ongoing experience gained by local authorities, the Housing Agency and others; findings from ongoing building assessment, laboratory testing and a review of relevant standards by NSAI, and in particular IS 465.
- The Minister and the Housing Agency may decide to give consideration as to how ‘damaged’ dwellings are prioritised, including semi-detached and terraced dwellings.

Building Condition Assessment Report

Homeowners will under the enhanced DCB scheme be required to submit a building condition assessment. Currently there is a BCA template set out in Annex A of the I.S.:465+A1:2020 standard. The expert group examined whether this BCA is adequate or if additional information or an entirely new BCA template is required and recommended the following:

- Building Condition Assessment Report: In the Act that the Minister may prescribe in regulations the information that is to be provided in a building condition assessment report and that a standard building condition report template is included in regulations.
- Professionals that can undertake a BCA: That the Minister would prescribe in regulation who can undertake a BCA. It is recommended that registered Chartered Engineers, Architects and Building Surveyors that are competent to undertake the BCA for the dwelling concerned be permitted to prepare the BCA report.
- Relevant changes to IS 465: The NSAI should consider changes to IS 465 as set out above; and in particular:
 - Amending Table 1 - Building Groupings to take account of the damage threshold being proposed.
 - Amending Section 5 to change “chartered engineer” to “competent building professional”
 - Amending Annex A – Building Condition Report as recommended above.
 - The Minister may decide to give consideration to setting a timeframe for the processing of applications by LAs and by the HA.

³⁰ Group 2 dwellings refer to those where pattern cracking is present in at least one elevation and no circumstantial evidence is recorded in the Chartered Engineer’s Report (see Appendix 1).

Parameters around Second Grant Application incl. Time Limits

The Government decision on the enhanced scheme makes provision for eligibility for a second grant for homeowners whose home is initially remediated under Options 2-5 but subsequently blockwork retained within the home after the first remediation proves defective in accordance with the I.S.:465+A1:2020 standard. The expert group made the following recommendations in relation to this issue:

- That the primary legislation should set out that there will be an entitlement to a second grant where the initial remediation option is anything other than demolition and rebuild of the home. This should be confirmed by a “Letter of Assurance”. The conditions of a Letter of Assurance for a second grant should be prescribed by the Minister in regulations.
- That the time limit for the second grant should be 20 years. However, it should be noted that homeowner representatives have requested that this be 40 years.

Time Limits on Grant approvals

In terms of overall scheme governance and oversight of the financial liability accruing for the Exchequer with each grant approved, it is considered important that grant approvals would not be open ended. The expert group recommended the following advice on this issue:

- That the time limits as set out above be provided for and the primary legislation provides for the Minister making regulations in this regard.
- The Minister should consider setting time limits on decisions by local authorities and the Housing Agency.
- The conditions of grant approval should impose a condition on the scheme participant to notify the local authority of the date of commencement of the works.

Independent Appeals Process

Under the current scheme, each local authority is required to have in place an appeals process. The Government decision calls for an independent appeals process to be established. It is envisaged in the decision that the appeals body will be permanent and fully independent of the relevant local authorities, the Housing Agency and the Department. The expert group recommended the following on this issue:

- That the primary legislation should set out the detail of the appeals board/panel, the appeals process and the decisions which can be appealed. The appeals process outlined in the Housing (Regulation of Approved Housing Bodies) Act, 2019 is considered to be a potentially suitable model to follow. The legislation should provide for the appeals being dealt with by way of documentation; as opposed to hearings. In essence an Appeals Panel of at least 10 members should be established and each appeal should be dealt with by an Appeals Board made up of 3 members of the panel.
- The Appeals Panel would in general be made up of competent chartered engineers, architects, building surveyors, barristers/solicitors and other appropriate individuals drawn from across the country.

Requirement for Remedial Works Plan to be prepared and submitted

Under the current grant scheme, remedial works plan must be submitted by the grant applicant as part of their stage 2 submission to the local authority. It is 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+A1:2020 standard, which has been prepared by a competent engineer.

In view of the revised grant calculation methodology and the likelihood that applicants will, under the enhanced scheme, be allowed to do work over and above what is grant aided, consideration was being given to dispensing with the requirement for the applicant to submit a remedial works plan and a cost plan. The expert group, having considered the issue, recommended the following:

- That the Remedial Works Plan be prescribed in the regulations.

Review Existing Certificate of Remediation Cert. to have Statutory footing

The current certificate of remediation is in a prescribed form and issued in accordance with Regulation 3 of S.I. No. 25 of 2020. It is signed by both the contractor and a competent engineer and confirms that the works have been completed in accordance with the remedial works plan, that the remedial option represents the minimum feasible remedial works to the dwelling, for the remediation of the damage arising out of, or in connection with, the use of defective concrete blocks in its construction and are compliant with the requirements of the Second Schedule to the Building regulations 1997 (S.I. No. 497 of 1997).

The Government in its decision asked that the current certificate of remediation be reviewed to see if it can be strengthened. The expert group made the following recommendations in relation to this issue:

- It would be advisable that in order help strengthen the Certificate of Remediation and instil more confidence in it that it be provided for in the primary legislation and that the format be prescribed in regulations to be made by the Minister. The Expert Group recommends a single Certificate to cover all remediation Options.
- That it would also be advisable for the Department to engage with the Conveyancing Committee of the Law Society, the Financial / Mortgaging Institutions, the providers of home insurance, and with Engineers Ireland.
- It should be noted that a key principle for the Expert Group in preparing the Draft Certificate of Remediation is that this Certificate will facilitate the conveyancing of dwellings.

Extension of the Scheme – Research on how many Counties are potentially impacted

Since the report of the Expert Panel on Defective Concrete Blocks was published in 2017 it has come to light that homes in other counties may be impacted. DHLGH is currently in discussions with local authorities in Clare, Sligo, Limerick and Tipperary about an extension of the scheme to those counties. The relevant local authority is taking the lead in carrying out the due diligence required to prove beyond doubt that manifest damage in homes in those counties is as a result of excessive amounts of reactive pyrite or mica in the blockwork in accordance with the I.S.:465+A1:2020 standard.

The expert group had the following recommendations to make as regards research on how many counties are potentially impacted by the mica and pyrite issue:

- Research could be commissioned but this would require further consideration.
- It appears inevitable that the scheme will have to be extended to additional counties and that such provision should be made within the primary legislation but provided for by way of regulation. Consideration should also be given to the feasibility of extending the scheme to estates, towns or parts of counties but not necessarily the full county where the evidence supports such a strategy.

Engagement with SCSi on Rebuild Costs – Options 1 – 5

The report of SCSi on construction costs (see below) will be reviewed by the Department and Housing Agency QS personnel to help inform the appropriate grant rates to be put in place for the enhanced DCB scheme. The report of the QS teams will be submitted to the Expert Group on the Enhanced Defective Concrete Blocks Grant Scheme for review and final advice to the Minister on the appropriate grant rates which should apply. The expert group made the following recommendations on this issue:

- That it will review the SCSi Report for the Defective Concrete Blocks Grant Scheme and will provide advice to the Minister in accordance with the Minister's request that the Expert Group analyse the SCSi Report and make recommendations on how to operationalise its findings.
- As the grant rates for the scheme will be adjusted annually in line with changes in construction costs it will be advised that the actual grant rates would not be set out in the primary legislation but in regulations thereunder.
- The current DCB Grant rates will provide funding for the remediation of dwellings to the Building Standards applicable before the coming into effect of S.I. No. 854/2007 – Building Regulations (Amendment) Regulations 2007 as the grant scheme does not pay for home upgrades. Compliance with the building regulations applicable to individual homes will be a matter for homeowners as they undertake remediation works.

Exempt Development Status for like for like Demolition & Rebuild

On the issue of exempt development status for DCB impacted homes which require demolition and rebuilding on existing foundations, the expert group made the following recommendations:

- It supports exempt development status for all DCB remediation works and advises that provision be made for such an exemption in the primary legislation to be put in place for the defective concrete blocks grant scheme. This will allow the exemption for remediation works under the DCB scheme to finish up when the DCB scheme itself draws to a close and not remain on the statute books long after it is required as part of planning legislation.

Principal provisions of the Bill

This section of the Digest examines some of the main provisions of the Bill. The Bill comprises of 58 sections in total. A short synopsis of each section is given in Table 3 above. Given the length of the Bill and the time between publication and Second Stage debate, it is not possible to cover all provisions of the Bill in this section. It concentrates on the most important provisions in the Bill.

Section 2 – Interpretation

Section 2 defines key words and terms used in the Bill. These include:

“Act of 2000” means the *Planning and Development Act 2000*;

“Act of 2001” means the *Local Government Act 2001*;

“Act of 2004” means the *Residential Tenancies Act 2004*;

“administrative area” has the same meaning as it has in the Act of 2001;

“ancillary grant” has the meaning given to it by section 10(2);

“Appeal Board” means an Appeal Board constituted under section 38(1);

“Appeals Panel” has the meaning given to it by section 37(1);

“approved remediation option” has the meaning given to it by section 16;

“building condition assessment” has the meaning given to it by section 12(1)(a);

“building condition assessment report” has the meaning given to it by section 12(1)(b);

“certificate of remediation” shall be construed in accordance with section 20;

“defective concrete blocks” means concrete blocks that contain excessive amounts of free or unbound muscovite mica or reactive pyrite or a combination of both, or excessive amounts of such other deleterious material or combination of materials as may be prescribed under section 41;

“designated local authority” means a local authority designated by order under section 5;

“designated local authority area” has the meaning given to it by section 5;

“dwelling” means a house and does not include an apartment, maisonette or duplex;

“Housing Agency” means the Housing and Sustainable Communities Agency;

“I.S. 465:2018” means Irish Standard 465:2018 Assessment, testing and categorisation of damaged buildings incorporating concrete blocks containing certain deleterious materials and Amendment 1:2020, published by the National Standards Authority of Ireland;

“landlord” means the person entitled to receive (otherwise than as agent for another person) the rent in respect of a dwelling from the tenant;

“letter of assurance” shall be construed in accordance with section 21;

“local authority” has the same meaning as it has in the Act of 2001;

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

“owns” means an individual who has a freehold estate or a leasehold estate, with more than 70 years remaining on the term of the lease, in the relevant dwelling;

“prescribed” means prescribed by regulations made by the Minister;

“relevant dwelling” means relevant dwelling under section 8;

“relevant owner”, other than in Chapter 2 of Part 3, means relevant owner under section 9(1);

“remediation option” has the meaning given to it by section 12(1)(c);

“remediation option grant” has the meaning given to it by section 10(1);

“residential tenancies register” means the register established and maintained by the Residential Tenancies Board under section 127 of the Act of 2004;

“second grant” has the meaning given to it by section 25;

“tenancy” includes a periodic tenancy and a tenancy for a fixed term, whether oral or in writing or implied;

“tenant” means a person entitled to the occupation of a dwelling under a tenancy.

Section 8 – Relevant dwelling

Section 8 defines a relevant dwelling under the scheme.

Subsection (1) provides that for the purposes of this Act, a dwelling is a relevant dwelling if:

- a) it is located in a designated local authority area,
- b) the construction of the dwelling was completed before 31 January 2020,
- c) defective concrete blocks were used in its construction, and damage was caused to the dwelling as a result of the use of those blocks, and
- d) it is not an unauthorised structure.

Subsection (2) provides that a relevant dwelling shall not include:

- a) any structure on land appurtenant to the dwelling in the construction of which defective concrete blocks were used, unless the Housing Agency is satisfied on considering the application under section 16(4) that damage may be caused to the dwelling, after the completion of a remediation option, by the failure to include the structure, or
- b) a building that provides multi-occupancy accommodation under conditions specified by the provider of the accommodation, including a nursing home, boarding school, hotel or hostel.

Section 9 – Relevant owner

Section 9 defines a relevant owner under the scheme.

Subsection (1) provides that for the purposes of this Act, other than in Chapter 2 of Part 3, “relevant owner” shall be construed in accordance with this section.

Subsection (2) provides that a relevant owner is an individual who owns, whether jointly or not, a relevant dwelling and:

- a) became an owner of the dwelling prior to 31 January 2020,
- b) inherited the dwelling on or after 31 January 2020, or
- c) subject to subsection (4), purchased the dwelling on or after 31 January 2020.

Subsection (3) provides that in order to be a relevant owner under subsection (2), the individual referred to in that subsection:

- a) subject to subsections (5) and (6), uses the dwelling as his or her principal private residence, or
- b) was the landlord of a tenancy of the dwelling which stood registered in the residential tenancies register on or before 1 November 2021.

Subsection 4 provides that an individual who purchased a relevant dwelling on or after 31 January 2020, other than a dwelling in respect of which a letter of assurance has been issued, shall not be a relevant owner where he or she knew or ought to have known that defective concrete blocks were used in the construction of the dwelling.

Subsection (5) provides that an individual shall be deemed to use a dwelling as his or her principal private residence where he or she so used the dwelling but ceased to do so due to damage to the dwelling caused by the use of defective concrete blocks in its construction.

Subsection (6) provides that where more than one individual owns a relevant dwelling, and at least one of the individuals use the dwelling as his or her private residence for the purposes of subsection (3)(a), any other of the individuals who do not use the dwelling as his or her principal private residence shall be deemed to have complied with subsection (3) (a) for the purposes of this Act.

Subsection (7) provides that an individual deemed under subsection (6) to have complied with subsection (3)(a) in relation to a relevant dwelling shall not be precluded on that basis from being a relevant owner of a different relevant dwelling.

Sections 10 and 11 – Grants

Section 10 of the Bill provides for the approval of grants for remediation works, alternative accommodation and storage cost and immediate repairs.

The overall maximum grant amount payable to an applicant under the scheme is €420,000. Within the overall maximum grant of €420,000 grant assistance is also available for:

- Alternative accommodation costs to an amount not exceeding €15,000
- Storage Costs to an amount not exceeding €5,000
- Immediate repair works to an amount not exceeding €5,000

Subsection (5) provides that a remediation option grant shall:

- a) where the approved remediation option is the demolition of the relevant dwelling and the reconstruction of the dwelling, be calculated by multiplying the internal floor area of the relevant dwelling, measured in square metres, by the cost per square metre of completing the remediation option, and
- b) where the approved remediation option is other than that referred to in paragraph (a) above, be calculated by multiplying the number of square metres of defective concrete blocks in the relevant dwelling to be removed and replaced in accordance with the remediation option by the cost per square metre of completing the remediation option.

Section 11 of the Bill provides for Government Orders to increase or decrease the overall grant cap and the grants available. It states that the Government shall not make an order earlier than:

- a) in the case of the first order under the associated paragraph, 12 months after the date of the coming into operation of this section, and
- b) in the case of subsequent orders, 12 months after the date of the coming into operation of the previous order under that paragraph.

Subsection (5) provides that the Government shall not by order:

- increase the maximum amount of €420,000 by more than 10 per cent of that amount, or where that amount has been increased or decreased, to an amount specified by a previous order, by more than 10 per cent of the amount specified by the last such order.

Section 12 - Remediation options and building condition assessments

Section 12 provides for remediation options and the requirements for assessments of dwellings.

The Minister may prescribe the:

- building condition assessment report
- remediation options grant aided under the scheme
- amount of grant payable in respect of remediation options
- cost per square metre of completing a prescribed remediation option.

Subsection (2) provides that the building condition assessments shall include:

- a study of such information or documents as may be prescribed, and
- a non-invasive visual inspection of the exterior and interior of the dwelling.

Subsection (4) provides that in making regulations under this section, the Minister shall have regard to:

- current best engineering practice for remediation of damage to dwellings caused by the use of defective concrete blocks in their construction, and
- I.S. 465:2018, or any amendment or replacement of it.

Subsection (5) provides that for the purpose of making regulations under this section, the Minister may:

- consult with a designated local authority, the Housing Agency, the National Standards Authority of Ireland, and such other persons as he or she considers appropriate, and
- commission such research or reports as he or she considers appropriate

Section 15 - Determination by Housing Agency of damage threshold

Section 15 provides for the Housing Agency to consider applications referred from the local authority, assess the level of damage, inspect (if necessary) the home and determine if a home the subject of an application has met the damage threshold for entry to the grant scheme.

Subsection (3) provides that for the purposes of making a determination and an assessment of the level of damage, an authorised officer of the Housing Agency:

- a) shall consider the application, and
- b) may, where he or she considers it appropriate—

- i. conduct a non-invasive visual inspection of the interior or exterior of the dwelling, or
- ii. make enquiries of any person, including the designated local authority.

Section 29 - Assignment and subrogation of claims to Minister

Section 29 provides for assignment and subrogation of claims, where the State will take over a legal right or claim related to defective concrete blocks which a relevant owner may have against any party.

Subsection (1) provides that where a relevant owner receives a payment under section 18 ('Payment of remediation option grant') or section 22 ('Ancillary grant applications') all rights of action which the relevant owner has against any other person, or the estate of any other person, for damage to the relevant dwelling caused by the use of defective concrete blocks in its construction shall, to the amount of the payment and from the date of the making of the payment, be assigned to and vest in the Minister.

Sections 37, 38 and 39 – Appeals

Section 37 provides for a 10 person Appeals Panel, and provides for appointments, tenure, pay, resignation, removal, qualification and administrative support.

Subsection (1) provides that the Minister may appoint such number of people as he or she considers appropriate, not exceeding 10, to be members of a panel (in this Act referred to as the "Appeals Panel") established and maintained by the Minister.

Subsection (2) provides that the Minister shall have regard to a person's experience or expertise in relation to the subject matter of decisions the subject of appeals under this Act or in relation to the hearing of appeals generally in appointing him or her under *subsection (1)*.

Subsection (3) provides that an appointment under *subsection (1)* shall be made for such period, not exceeding 5 years from the date of the appointment, as the Minister determines

Subsection (4) provides that subject to subsection (5), a member whose appointment under subsection (1) expires shall be eligible for reappointment under that subsection.

Subsection (5) provides that a person shall not be appointed to the Appeals Panel for more than 2 terms.

Subsection (6) provides that the Minister shall appoint a chairperson of the Appeals Panel from among its members.

Section 38 provides for an Appeals Board of 3 persons from the Appeals Panel to hear and determine individual appeals.

Subsection (1) provides that an Appeal Board of 3 persons shall be constituted by the chairperson of the Appeals Panel from among the members of the Appeals Panel to determine an appeal.

Subsection (2) provides that the chairperson of an Appeal Board shall be appointed by the chairperson of the Appeals Panel from among the members of the Appeal Board.

Subsection (3) provides that where the chairperson of the Appeals Panel is appointed to be a member of the Appeal Board, he or she shall be the chairperson of the Appeal Board.

Subsection (4) provides that an Appeal Board is to be independent in the performance of its functions.

Section 39 provides for matters in the determination of appeals, for example decisions which can be appealed, the manner in which appeals may be made, responses, matters for consideration, decisions and directions.

Subsection (10) provides that following consideration of the appeal, the Appeal Board shall:

- a) affirm the decision the subject of the appeal, or
- b) where the Appeal Board considers that a serious and significant error of law or fact, or a series of minor errors of law or 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—
 - i. 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, or
 - ii. replace the decision with such other decision as it considers it appropriate to make in accordance with this Act.

Section 41 – Minister may prescribe other deleterious materials

Section 41 provides for the Minister to prescribe further deleterious materials, or combinations thereof.

Subsection (1) provides that subject to *subsection (2)* the Minister may prescribe such other materials, or combinations of materials, to be deleterious materials for the purposes of the definition of “defective concrete blocks” in *section 2* of the Bill (‘interpretation’) as he or she considers appropriate.

Subsection (2) provides that only materials, or combinations of materials, considered to be deleterious materials in I.S. 465:2018 or any amendment or replacement of it may be prescribed under *subsection (1)*.

Section 52 - Offences and penalties

Section 52 provides for offences and penalties for the furnishing of false information.

Subsection (2) provides that a person who is found guilty of an offence of providing false information is liable:

- a) on summary conviction to a class A fine (a maximum of €5,000), or imprisonment for a term not exceeding 12 months or both, or
- b) on conviction on indictment to a fine not exceeding €50,000 or imprisonment for a term not exceeding 5 years or both.

Stakeholder discussion

The Joint Committee on Housing, Local Government and Heritage held three public meetings on [23 June 2022](#) at which affected homeowners, experts, and Department officials discussed the content of the Bill. Some of the key issues that arose during these discussions are now summarised below.

Cost of the Scheme

The Bill provides an overall maximum grant amount payable to an applicant under the scheme to the sum of €420,000. Within the overall maximum grant of €420,000 grant assistance is also available for:

- Alternative accommodation costs €15,000
- Storage Costs €5,000
- Immediate repair works €5,000

The grant calculation methodology, where the relevant remedial option is the demolition of the entire dwelling to foundation level and rebuild on existing foundations, is to be based on a prescribed cost per square metre of rebuilding a relevant dwelling.

The grant amounts were informed by the work on construction costs by the SCSi which were [published](#) in March 2022. Average rebuilding rates for 8 house types, including typical estate-type homes and one-off homes, were provided, ranging from €145 per square foot to €165 per square foot, priced at February 2022 material and labour rates.

During the stakeholder discussion, the various **Action Groups** representing affected homeowners raised concerns in relation to the scheme failing to provide for full redress. They claimed that the scheme is based on eligible costs and not actual costs and excludes a number of items such as foundations and finishings. To address this shortfall they suggest allowing for a downsizing option which would let homeowners claim the same grant based on their current home size but have it directed towards building themselves a smaller home instead. They also asked for inflation forecasts to be built into the scheme.

The **SCSi** stated that if there is a requirement to determine the impact, if any, of current construction cost inflation on the rebuild figures from February since their report was published, they are of the view that the most accurate way to do this would be to re-do the entire cost exercise in full for all 8 house types. The SCSi has agreed to undertake an annual review of the construction costs contained in the report to provide an updated table of average rebuilding costs due in March 2023. The SCSi has previously offered to re-cost to current building standards and new foundations when required. During the Committee discussion, the SCSi also stated the possibility of extending their costings to look at them on a regional basis.

Coverage of the Scheme

Under the Bill, the Government may by order designate a local authority to be a designated local authority for the purposes of the Act. Currently, the following local authorities are each deemed to be a designated local authority in respect of the whole of its administrative area:

- a) Clare County Council;
- b) Donegal County Council;
- c) Limerick City and County Council;
- d) Mayo County Council.

In their [opening statement](#) to the Committee, the **DHLGH** confirmed that further local authority areas can be added as the necessary evidence supports inclusion.

One of the key issues that arose during the stakeholder discussion was that of the damage threshold in order for homeowners to gain entry to the grant scheme. The **DHLGH** stated that a damage threshold for entry to the grant scheme will be set in order to ensure the worst affected homes are first into the enhanced scheme and prioritised for approval and remediation. The Expert Group have made a recommendation in relation to the appropriate damage threshold which should apply and this is being considered by the Minister and will when agreed be provided for under regulations.

A review has also commenced with consideration of the potential impact of other deleterious materials such as pyrrhotite and the impact or otherwise of those deleterious materials on the foundations in homes impacted. Currently, only materials, or combinations of materials, considered to be deleterious materials in I.S. 465:2018 or any amendment or replacement of it may be prescribed under the scheme.

Other issues arising

Other key issues that arose during the stakeholder discussion included the following:

- Testing – access to an efficient core testing system and an independent process
- Enforcement/surveillance – need for oversight of the industry and quarries
- Standards – a review of the Irish Standard for concrete blocks (including aggregates) is currently underway
- Appeals process – requirement for a fully independent appeals process
- Subrogation – rights of homeowners to pursue costs
- Accountability – how to recover costs from the industry and those responsible e.g. reference was made to a possible industry levy
- Flexibility – how the scheme can be applied retrospectively

Appendix 1: I.S. 465: 2018

The National Standards Authority of Ireland (NSAI) established a Technical Committee to scope and fast track the development of a standardised protocol for assessing and determining whether a building has been damaged by concrete blocks containing excessive amounts of certain deleterious materials (muscovite mica or pyrite). The protocol informs the course of action in relation to remedial works for all affected householders and was published by the NSAI on 13 November 2018.

The standard can be used to assess and categorise the damage in properties where the concrete blocks are suspected to contain the minerals mica or pyrite. Previously, there was no common way for engineers or homeowners to assess the damage caused by defective concrete blocks, in order to decide what, if any, remedial work could be carried out. The standard:

- establishes a protocol for assessing and determining whether a building has been damaged by concrete blocks containing certain excessive amounts of deleterious materials (free or unbound muscovite mica, or aggregate with potentially deleterious quantities of pyrite);
- describes methods for establishing the extent of the problem;
- describes the scope of any testing required; and
- categorises buildings, in accordance with the standard, providing competent persons with guidance on the appropriate measures to be taken.

Table 14 below lists the different dwelling categories following the building condition assessment.

Table 14: Building Grouping

Group	Damage	Building Condition Assessment
Group 1	Undamaged	Pattern cracking is not present, however some or all the circumstantial evidence ^a is recorded in the Chartered Engineer's Report.
Group 2	Damaged	Pattern cracking is present in at least one elevation (but insufficient evidence of other damage to classify the building as Group 4) and no circumstantial evidence is recorded in the Chartered Engineer's Report.
Group 3	Damaged	Pattern cracking is present in at least one elevation (but insufficient evidence of other damage to classify the building as Group 4) and some or all the circumstantial evidence is recorded in the Chartered Engineer's Report.
Group 4	Significantly Damaged	Pattern cracking on at least one elevation and at least two of the following items of damage present on same or adjacent elevation: <ul style="list-style-type: none"> a) vertical cracks near corners > 5 mm in width; b) crumbling concrete blocks; c) severe displacement of reveals with cracking; d) wall leaning or bulging noticeably i.e. local deviation of slope in the horizontal or vertical plane of external walls of > 1 in 100, and e) cracking of widths > 1 mm on internal leaf where damage is also present on the corresponding external leaf, or multiple cracks of concrete masonry walls in one room of > 0,5 mm.

		Where circumstantial evidence is available it shall be recorded in the Chartered Engineer's Report.
<p>^a Circumstantial evidence (risk factors) suggesting the possible presence of deleterious materials in concrete blocks includes:</p> <ul style="list-style-type: none">- information that blocks came from manufacturer(s) reported to have supplied blocks to other damaged dwellings likely to have arisen from deleterious material in concrete blocks.- construction within the date range of constructions mentioned in the Report of the Expert Panel on Concrete Blocks, and in the geographic areas reported to be affected; and- documented information (e.g. Chartered Engineer's Report) that other dwellings in the same estate or local have exhibited signs of damage likely to have arisen from deleterious materials in concrete blocks.		

Source: [NSAI](#) (2018)

Contact:

Houses of the Oireachtas
Leinster House
Kildare Street
Dublin 2
D02 XR20

www.oireachtas.ie

Tel: +353 (0)1 6183000 or 076 1001700

Twitter: @OireachtasNews

Library & Research Service

Tel: +353 (0)1 6184701

Email: library.and.research@oireachtas.ie

