

## **Exemption for properties constructed using defective concrete blocks**

### **Part 02-13**

This document should be read in conjunction with section 10D Finance (Local Property Tax) Act 2012 (as amended)

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## 1 Introduction

A temporary 6-year period of exemption from the charge to local property tax (LPT) is available for certain properties that have been damaged by the use of defective concrete blocks in their construction.

A property that has been damaged by the use of defective concrete blocks in its construction is eligible for the exemption in the following circumstances:

1. where it has been confirmed as eligible for a grant under the Defective Concrete Blocks Grant Scheme<sup>1</sup> (see [section 5.1](#) below),
2. where an insurance company has remediated it or has provided sufficient funds to carry out the remediation (see [section 5.2](#) below), or
3. where the builder who built the property has remediated it or has provided sufficient funds to carry out the remediation (see [section 5.3](#) below).

In relation to the qualifying conditions numbered 2 and 3 above, claimants have to apply to Revenue for approval of the exemption and Revenue has published guidelines in relation to the application process. This Tax and Duty Manual (TDM) contains similar material to these guidelines - 'Guidelines on the operation of the exemption for properties damaged by the use of defective concrete blocks in their construction' - published in the [LPT section](#) of the Revenue website.

In relation to qualifying condition number 1, this refers to properties that have been confirmed as eligible for a grant for remediation work under the Defective Concrete Blocks Grant Scheme ('the grant scheme') administered by Donegal and Mayo County Councils. The grant scheme was signed into law under S.I. No. 25 of 2020 on the 31 January 2020. The scheme covered up to 90% of the costs associated with the remediation of the dwelling and first opened for applications at the end of June 2020. The grant scheme is limited to properties situated in the administrative areas of Donegal County Council and Mayo County Council.

In considering properties that are affected by the use of defective concrete blocks, whether it has already caused structural damage to a property or has the potential to cause such damage, it is likely that this will have a negative effect on the market value of the property. This may result in a reduced LPT liability for the affected property, depending on the property's chargeable value on a valuation date.<sup>2</sup>

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<sup>1</sup> The scheme is provided for by the Dwellings Damaged by the use of Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020.

<sup>2</sup> Date on which a property is to be valued for LPT purposes. The relevant valuation date for this exemption is 1 November 2021.

## 2 ‘Pyrite’ exemption v ‘defective concrete block’ exemption

The ‘defective concrete block’ exemption is similar to the ‘pyrite’ exemption in certain respects such as the qualifying conditions, the duration of the exemption (fixed 6-year period) and the application process. However, a key difference is that it is not sufficient for qualification for the ‘defective concrete block’ exemption to obtain certification of significant damage by a competent person such as an engineer. Such certification must be followed by confirmation of eligibility for the grant scheme. See [section 3](#) below for an overview of the operation of the grant scheme.

The cause of the damage to a property will determine the appropriate LPT exemption category. If the damage is caused by pyrite in the foundations, the ‘pyrite’ exemption applies. If the damage is caused by pyrite in concrete blocks in the walls, the ‘defective concrete blocks’ exemption applies. The presence of pyrite is a feature of the damage to properties in Mayo while the damage to properties in Donegal is caused by a substance called mica in the concrete blocks. Details of the ‘pyrite’ exemption is available in Tax and Duty Manual [Part 02-10](#).

## 3 Defective Concrete Blocks Grant Scheme

This section contains a broad overview of the grant scheme. The statutory basis for the scheme is the **“Dwellings Damaged by the Use Of Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020” (S.I. 25 of 2020)** which were introduced by the Minister for Housing, Local Government and Heritage on 31 January 2021. The purpose of these Regulations is to provide for a scheme of financial assistance to property owners to carry out the necessary remedial works to properties that have been damaged by the use of defective concrete blocks in their construction. These are blocks that contain excessive amounts of deleterious materials, namely mica or pyrite.

The National Standards Authority of Ireland (NSAI) published a standardised protocol, **“I.S. 465:2018 – Assessment, testing and categorisation of damaged buildings incorporating certain deleterious materials”**. Acceptance into the grant scheme requires that an engineer assesses, tests and categorises the damage in accordance with the procedures specified in I.S. 465:2018 and prepares a report demonstrating that the property has been damaged. An applicant for a grant then applies for inclusion in the grant scheme and submits the engineer’s report to the relevant local authority. If the local authority confirms eligibility to proceed to the grant approval stage, the property qualifies for the LPT exemption. This exemption does not require actual grant approval, grant payment or remediation work.

The grant scheme opened for applications at the end of June 2020. It is restricted to owners of properties that are used as the owner’s principal private residence. An owner can only apply for a grant for one property. A property purchased on or after 31 January 2020 will not be eligible for the grant scheme where the purchaser knew, or ought to have known, that defective concrete blocks were used in its construction.

The grant scheme is administered by Donegal and Mayo county councils. These local authorities are specifically referenced in the Regulations.

## 4 Legislation

The relevant provision for the exemption for properties constructed using defective concrete blocks are contained in section 10D.<sup>3</sup> The relevant provisions for the 'pyrite' exemption are contained in section 10A.

The statutory basis for the Defective Concrete Blocks Grant Scheme is the Regulations **"Dwellings Damaged by the Use Of Concrete Blocks in Construction (Remediation) (Financial Assistance) Regulations 2020" (S.I. 25 of 2020)** which were introduced by the Minister for Housing, Local Government and Heritage on 31 January 2021.

Revenue has no responsibility in relation to these Regulations. Any questions on them should be addressed to [defectiveconcreteblocks@housing.gov.ie](mailto:defectiveconcreteblocks@housing.gov.ie). The main telephone number for the Department of Housing, Local Government and Heritage is 01-8882000.

## 5 Qualifying conditions

### 5.1 Confirmation of eligibility for the grant scheme<sup>4</sup>

A "confirmation of eligibility" in relation to a property must be issued by Donegal or Mayo county council. This is a confirmation that a person is eligible to be considered for confirmation of grant approval in respect of a property for the carrying out of the qualifying works required for, or ancillary to, the relevant remedial option for the property. The exemption does not require that a grant has actually been approved or paid or that remediation work has been carried out. Although the grant scheme opened for applications at the end of June 2020, the exemption is not retrospective and the first LPT liability date it can apply for is 1 November 2021 in respect of LPT payable for the year 2022. See [example 10.1](#) below.

### 5.2 Insurance covering structural damage to a property<sup>5</sup>

Builders and property developers may take out an insurance policy by way of registration with a company that underwrites any major structural defects in the properties that they build or develop. Builders and developers who have such cover should have given a copy of the warranty policy to a person who purchased one of their properties. Such structural warranty schemes are operated by companies such as Homebond and Premier Guarantee.

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<sup>3</sup> Section 10D introduced by Finance (Local Property Tax) (Amendment) Act 2021.

<sup>4</sup> Section 10D(1)(a)

<sup>5</sup> Section 10D(1)(b)

The type of evidence of damage required by a structural warranty company in support of a claim for exemption is a matter for the particular property owner and the insurance company. Where a property owner makes a successful claim under an insurance policy, Revenue will require such evidence that will satisfy it that, following a claim that a property has been damaged by the use of defective concrete blocks, an insurance company has remediated the property to the required standard (see [section 5.4](#) below) or has provided the property owner with sufficient funds to remediate the property. See [example 10.3](#) below.

### 5.3 Remediation or compensation by builder/property developer<sup>6</sup>

Builders or property developers may accept responsibility for the damage caused by their use of defective concrete blocks and agree to remediate the properties. This may come about as a result of a voluntary decision by a builder or from the institution of legal proceedings by the owners of damaged properties. Whatever the reason, it is expected that remediation would not take place without it having been established that the damage was significant and that it had actually been caused by the use of defective concrete blocks. In such circumstances, Revenue will require such evidence that will satisfy it that, because a property has been damaged by the use of defective concrete blocks, the builder or property developer who built the property has remediated it to the required standard (see [section 5.4](#) below) or has provided the property owner with sufficient funds to remediate the property. See examples in [section 10.4](#) below.

### 5.4 Type of remediation required

The qualifying conditions outlined in [sections 5.2](#) and [5.3](#) above require that a property is remediated or that sufficient funds are provided to the property owner to carry out the remediation. Although a property might not be accepted into the grant scheme, remediation in this context has a particular meaning and is based on remediation carried out under the grant scheme. The required procedures for the remediation of a property are contained in I.S. 464:2018. The work depends on the remedial option recommended in the engineer's report which can be substantial. In descending order of cost, the remedial options are:

1. demolish entire dwelling to foundation level and rebuild;
2. demolish and rebuild external walls (both outer and inner leafs) down to foundation on a phased basis and re-render;
3. demolish and rebuild external walls (both outer and inner leafs) down to top of rising wall on a phased basis and re-render;
4. demolish and rebuild external walls (outer leaf only) down to top of rising wall on a phased basis and re-render; and

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<sup>6</sup> Section 10D(1)(c).

5. demolish and rebuild outer leaf of affected walls only and re-render. Where an insurance company or a builder/property developer provides a property owner with sufficient funds to carry out the remediation work, this amount must be sufficient to remediate the property in accordance with I.S. 465:2018.

## 6 Claiming the exemption

A property cannot qualify for the exemption unless the exemption is claimed.<sup>7</sup> How the exemption is to be claimed depends on the qualifying condition involved and when the condition is met (see [section 5](#) above).

In the case of inclusion in the grant scheme (see [section 5.1](#) above), the exemption is claimed as part of the normal self-assessment process and the claim does not have to be approved by Revenue. However, see [section 9](#) below in relation to Revenue's compliance programme. See [examples 10.1](#) and [10.3](#) below.

In the case of the remediation of a property by an insurance company or a builder (see [sections 5.2](#) and [5.3](#) above), the claim must be approved by Revenue. A claimant is required to submit certain documentation in support of a claim. See [examples 10.3](#) and [10.4](#) below.

### 6.1 Qualifying condition met on 1 November 2021

Where the qualifying condition for the exemption is met on the second valuation date<sup>8</sup> 1 November 2021, the exemption should be claimed in the LPT1 return form by inserting the exemption code number "4" in the exemption box. This claim covers the years 2022 to 2027 (6-year period). See [example 10.1](#) below.

### 6.2 Qualifying condition met after 1 November 2021

Where the qualifying condition for the exemption is met in the period after 1 November 2021 and on or before 1 November 2024, the exemption should be claimed online using [MyEnquiries](#), [ROS](#) or the [LPT online service](#) or by writing to LPT Branch, PO Box 100, Ennis, Co. Clare. A claim should include any relevant documents in support of the claim.

This claim covers the 6-year period commencing with the first year for which the first liability date (1 November in each year) falling after the qualifying condition applies. For example, if the qualifying condition is met in June 2024, 1 November 2024 is the liability date for the year 2025 and the claim covers the years 2025 to 2030 (6-year period). See [example 10.2](#) below.

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<sup>7</sup> Required by sections 3A and 41A in relation to the second valuation period 2022 to 2025.

<sup>8</sup> The valuation date is the date on which the chargeable value of a property is established for all liability dates (1 November in each year) falling within the valuation period.

### 6.3 Documents supporting the claim for the exemption

Claimants for exemption based on **confirmation of eligibility for the grant scheme** should submit the local authority notification of such confirmation.

Claimants for exemption based on a **successful insurance claim, remediation by a builder/property developer or the provision of sufficient funds to carry out the remediation works** should send a written notification to Revenue claiming the exemption and submitting relevant documentation in support of their claim. Revenue is not in a position to be prescriptive about the exact types of documentation that will be accepted as evidence of qualification for the exemption. Decisions will be made on the facts and circumstances of individual cases. The following types of information might be relevant depending on the particular situation:

- a brief description of the nature and extent of the damage,
- documentation provided by an insurance company in relation to a claim or settlement under structural warranty insurance, structural warranty guarantee or other form of insurance,
- a copy of a court judgement or settlement agreement where a property owner has instituted legal proceedings against a builder/property developer,
- documentation provided by the builder or the property developer in relation to the remediation of the property, whether by direct remediation or the provision of sufficient funds to carry out the remediation, and
- a certificate of remediation prepared in accordance with I.S. 464:2018.

Additional information may also be requested by Revenue to ensure that the claim qualifies for the exemption. Revenue will approve the exemption only where it is satisfied that the documentation submitted constitutes sufficient evidence that:

- an insurance company has remediated a property or provided sufficient funds to carry out the remediation, or
- the builder or the property developer who built the property has remediated it or provided sufficient funds to carry out the remediation.

There is no specific form for the written notification for making a claim for the exemption. In addition to the evidence relating to the basis for the claim, it should include the name and address of the property owner, his or her PPSN and the LPT Property ID for the particular property.



## 7 Date from which a property qualifies for the exemption

Depending on the basis for the exemption, the date on which a property qualifies for the exemption is either:

- the date on which the local authority issues the confirmation of eligibility for the grant scheme;
- the date on which a claim is settled under an insurance policy, or
- the date on which the remediation of a property is completed or sufficient funds for remediation are provided, where a builder or property developer remediates, or provides sufficient funds for the remediation of, the property.

When Revenue approves an exemption, the letter of approval must specify the date from which the exemption is to apply.

## 8 Duration of the exemption

The exemption will apply from the liability date following the date on which a property qualifies for the exemption. The liability date is 1 November in each year, which date determines the LPT payable for the following year. The exemption will then apply for a fixed period of 6 consecutive years. For example, if the qualifying condition is met in June 2024, 1 November 2024 is the liability date for the year 2025 and the claim covers the years 2025 to 2030.

## 9 Self-assessment and compliance

Where the exemption is claimed on the LPT 1 return form as part of the normal self-assessment process, Revenue may decide to examine the validity of the claim at a later stage as part of its ongoing compliance programme. See [section 6](#) above. The person claiming the exemption may be required to provide evidence and supporting documentation to back up the claim, such as confirmation of eligibility for the grant scheme from a local authority or relevant documentation from an insurance company or builder. Claimants should retain documentation to support their claim for exemption for a period of 6 years following the claim in case of a request for inspection by Revenue.

The exemption will be withdrawn where Revenue determines that the qualifying condition for the exemption was not met. Interest will be charged from the date on which LPT would have been payable in the absence of the exemption. A penalty may be imposed where a person makes a false statement or representation for the purpose of obtaining a reduction in the LPT liability.<sup>9</sup>

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<sup>9</sup> Section 147.

## 10 Examples illustrating the operation of the exemption

### 10.1 Confirmation of eligibility for the grant scheme in May 2021

Aoife owns two houses in Donegal, one of which is her principal private residence and the other a rental property. Both houses have started to show serious cracks in the external walls that she attributes to the use of defective concrete blocks. She applies to Donegal county council for a grant towards the remediation of both houses but only receives a confirmation of eligibility (issued in May 2021) in respect of her principal private residence in accordance with the terms of the scheme. As Aoife is eligible for the exemption on the following liability date 1 November 2021, and as this is also the new valuation date for LPT, she claims the exemption on the LPT1 return form. She follows this up by sending on the email she received containing the confirmation of eligibility for the grant scheme. Her 6-year period of exemption will be available for the years 2022 to 2027.

### 10.2 Confirmation of eligibility for the grant scheme in December 2021

Martin's house started to show cracks in the external walls which got much worse by the time he applied to Mayo County Council in July 2021 for the remediation grant scheme. He received a confirmation of eligibility in December 2021. However, as this was after 1 November 2021 (the liability date for the year 2022), he does not qualify for the LPT exemption until the following liability date 1 November 2022. This means that his 6-year period of exemption will not start until 2023 and will last until 2028. He is therefore required to pay LPT for 2022 based on the valuation he self-assessed for his house at 1 November 2021 in his LPT1 return form. As it was obvious that his house had been seriously damaged at that stage, he valued it in the lowest valuation band of 'zero to €200,000', resulting in a €90 LPT liability for 2022 (before any adjustment that might be made by Mayo county council).

### 10.3 Settlement of structural warranty insurance claim

Fintan lives in Dublin. He began to notice structural damage to his house during 2020. He suspected that the damage was being caused by defective concrete blocks and submitted a claim to the insurance company with which his builder had registered the property. The insurance company was satisfied that Fintan had a valid claim in relation to the damage and engaged a contractor to carry out the remediation work. The remediation was completed in August 2021. Fintan claimed the exemption on the LPT1 return form that was submitted to Revenue in relation to the second valuation date 1 November 2021. He followed up by sending copies of the letter from the insurance company settling his claim and the Certificate of Remediation to Revenue in support of his claim. This evidence was accepted by Revenue and the claim was approved. As the effective date for the exemption was August 2021, it applied from the following liability date of 1 November 2021 in respect of the year 2022 and the following five years i.e. 2023 to 2027.

## 10.4 Payment of compensation by a builder

### **Example 1: insufficient compensation to remediate property**

Maria lives in Carlow and isn't eligible for the grant scheme. She commences legal proceedings against her builder as a result of structural damage to her house that she suspects has been caused by the use of defective concrete blocks. The builder refuses to accept responsibility for the damage but offers Maria €25,000 in return for her agreement not to continue with the legal proceedings. She accepts this offer. Maria is not eligible for the exemption as the amount paid by the builder would not be sufficient to carry out the remediation.

### **Example 2: sufficient compensation to remediate property**

Sarah had already commenced legal proceedings against her builder for damage caused to her house by the use of defective concrete blocks when the grant scheme came into operation in June 2020. As she lives in Donegal, she applied to the county council for a remediation grant. The county council issued a confirmation of eligibility for a grant but shortly afterwards, the High Court ordered the builder to pay Sarah €250,000, the estimated cost of remediating her house by demolishing and rebuilding the external walls down to foundation level. She is not then entitled to proceed with the grant application.

The builder carries out the remediation work and gives Sarah a Certificate of Remediation in March 2022. She then writes to Revenue with a claim for the exemption and submits copies of the Court Order and Certificate of Remediation in support of her claim. Revenue accepts her claim with effect from March 2022. She qualifies for the exemption on the following liability date of 1 November 2022 for the 6-year period 2023 to 2028.