



An Bord Réitigh um Pírit
Pyrite Resolution Board

Pyrite Resolution Board

Pyrite Remediation Scheme

As adopted by the Pyrite Resolution Board on 25 July 2019

Prepared by the Pyrite Resolution Board under section 13 of the Pyrite Resolution Act 2013

IMPORTANT NOTICE

It is the responsibility of each applicant to the Scheme to ensure that they have read and fully understand the Scheme requirements contained herein.

Failure to fully adhere to the provisions of the Scheme may result in delays in processing of an application or exclusion from the Scheme.

This Scheme should be read in conjunction with the provisions of the Pyrite Resolution Act.

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Pyrite Remediation Scheme

1 Legal Basis

- 1.1 The Pyrite Resolution Act 2013 provides for the making of a Pyrite Remediation Scheme (the Scheme), for certain dwellings affected by pyrite; provides for the establishment of the Pyrite Resolution Board (PRB) to manage the implementation of such scheme; and provides for matters connected therewith. This document contains the Pyrite Remediation Scheme and constitutes the framework for the application of the provisions contained in the Act.
- 1.2 The Pyrite Resolution Board is subject to the provisions of the Freedom of Information Act 2014; Regulation EU 2016/679 (GDPR) and the Data Protection Acts 1988 to 2018.
- 1.3 The words and terms in this document have the same meaning as in the Pyrite Resolution Act 2013 unless otherwise indicated.
- 1.4 Any reference in this Scheme to the PRB can mean the Board itself or the staff assigned to it.

2 Overview of the Scheme

- 2.1 The Pyrite Remediation Scheme is for the remediation of eligible dwellings that have a damage condition rating of 2 (see paragraph 3.3) as a result of pyritic heave caused by the swelling of hardcore under ground floor slabs.
- 2.2 The stages of the Scheme are as follows:
 - Stage 1: Application and Validation
 - Stage 2: Assessment and Verification process
 - Stage 3: Remedial Works Plan
 - Stage 4: Tendering and Tendering Analysis
 - Stage 5: Decision to contract
 - Stage 6: Dwelling vacated for remediation works

Stage 7: Remediation works - dwelling reoccupied

Stage 8: Application Closure

- 2.3 The Scheme (as amended) will come into operation on 25/07/2019.
- 2.4 The damage assessment, appropriate testing, verification of significant damage due to pyritic heave and actual remediation work will generally be in accordance with:
- (a) I.S. 398-1: 2017 Reactive pyrite in sub-floor hardcore material
- Part 1: Testing and categorisation protocol, and
 - (b) I.S. 398-2: 2013 Reactive pyrite in sub-floor hardcore material
- Part 2: Methodology for remediation works.

3 Eligibility

- 3.1 The Pyrite Remediation Scheme (the Scheme) may apply to the following classes of dwellings, which are used or suitable for use by a person as a place to reside:
- (a) houses;
 - (b) apartments;
 - (c) duplexes;
 - (d) maisonettes.
- 3.2 The Scheme may also apply to a structure, area or service of a building comprising apartments, duplexes or maisonettes (or any combination of such dwellings) common to any two or more of such dwellings (in this section referred to as a “common area”).
- 3.3 To be included in the Scheme, a dwelling must have a damage condition rating of 2, as defined in the Irish Standard I.S. 398-1:2017 Part 1, consistent with pyritic heave and it must be verified that the damage is attributable to pyritic heave following the Damage Verification Process.
- 3.4 A person who is the owner or joint owner of a dwelling that complies with the eligibility criteria, may apply to the PRB for that dwelling to be included in the Scheme, subject to paragraphs 3.5 and 3.6.

- 3.5 A person who on 12 December 2013 owns, whether or not jointly, more than one dwelling may make an application to the PRB for inclusion of only one of those dwellings in the Scheme.
- 3.6 Where a person purchased a dwelling on or after 12 December 2013, that person is not entitled to apply for inclusion of the dwelling in the Scheme where he/she knew or ought to have known that the dwelling was constructed using hardcore containing reactive pyrite.
- 3.7 Paragraphs 3.5 and 3.6 above do not apply where the applicant is an approved housing body.
- 3.8 The dwelling must have been constructed and completed between 1 January 1997 and 12 December 2013 within the administrative areas of Dun Laoghaire-Rathdown, Fingal, Kildare, Meath, Offaly, South Dublin County Council or Dublin City Council.
- 3.9 The applicant must show to the satisfaction of the PRB that he/she does not have available to him or her any practicable option, other than under the Scheme or the use of his or her own resources, to remediate or secure the remediation of the dwelling.
- 3.10 It is a condition of eligibility under the Scheme that the Applicant gives his/her consent to the institution by the PRB of civil proceedings relating to loss arising from the act or default of any person that causes significant pyritic damage to the dwelling.

4 Exclusions

- 4.1 The Scheme does not apply to buildings, other than buildings comprising apartments, duplexes or maisonettes (or any combination of such dwellings), that provide multi-occupancy accommodation under specific conditions, including, but not limited to, nursing homes, boarding schools, hotels and hostels.
- 4.2 The Scheme does not apply to a garage, car park, garden, patio or other structure not used for human habitation, unless the PRB is satisfied that failure to include the structure concerned in the pyrite remediation scheme may result in damage to a dwelling:
- (a) that has been included in the Scheme, or
 - (b) in relation to which a recommendation has been made by the Housing

Agency for inclusion in the Scheme.

- 4.3 The Scheme does not apply to dwellings or common areas owned by:
- (a) public bodies, or
 - (b) the builder or developer of the dwelling to which the application refers except for a common area where the builder or developer does not own all of the dwellings in the building of which the common area is part.
- 4.4 Where a dwelling affected by pyritic heave is or has been remediated other than in accordance with the Scheme, the costs of remediation and any associated costs are not refundable under the Scheme.

5 Exceptional Circumstances

- 5.1 A dwelling that might otherwise be excluded from the Scheme, for reasons of the level of damage; ownership of more than one dwelling affected; or purchase on or after 12 December 2013, may be included by the PRB, where the PRB is satisfied that failure to include it may result in damage to an adjoining dwelling included or recommended for inclusion in the Scheme or where remediation of the adjoining dwelling may cause damage to the dwelling concerned.

6 Application and Validation Process

- 6.1 The owner or joint owner of a dwelling to which the Act applies may apply to the PRB for that dwelling to be included in the Scheme. Where a joint owner applies, the consent of the other joint owner(s) is required.
- 6.2
- (a) The online application form on the PRB website, www.pyriteboard.ie, must be fully completed for submission of a valid application. The Building Condition Assessment Report of a competent person must be electronically attached to the application in PDF format. The competent person undertaking the Building Condition Assessment must have sufficient theoretical and practical training, experience and knowledge appropriate to the nature of the work undertaken.
 - (b) The application form shall contain such information as the PRB considers necessary to make its determination and may include all or any of the following:

- details of applicant(s) including name, address, PPS Number, date of birth,
- details of dwelling including address, location, building type, floor area,
- details of property management company (if applicable),
- ownership and occupation of dwelling details,
- details of warranty/insurance cover (if applicable),
- damage history,
- actions taken by the applicant to secure the remediation of his/her dwelling or to secure compensation for the damage,
- legal proceedings taken by or on behalf of the applicant (if applicable),
- details of builder/developer,
- actions taken by the builder/developer to secure the remediation of the dwelling or to secure compensation for the damage whether that be as a result of a successful insurance claim or a consequence of legal proceedings (if known).

6.3 The PRB may request from an applicant such other information or clarification as it considers necessary on all or any of the details provided in an application.

6.4 An acknowledgement, including a unique reference number, will be issued to the applicant when an application is lodged.

6.5 The application will be considered by the PRB to verify that it complies with the relevant eligibility criteria in Section 3 to allow for its validation.

6.6 The PRB will validate an application if it considers that it meets all the eligibility criteria in Section 3 with the exception of the damage verification process and will notify the applicant of its decision, not later than 21 days from the making of the decision. If the application is validated the PRB will then proceed to the Assessment, Verification and Recommendation Process.

- 6.7 When an application is validated, the applicant will be able to access and track the progress of an application online, through the stages outlined in paragraph 2.2 above.
- 6.8 In considering an application under this section, the PRB may request from the applicant such further information as it considers necessary to establish eligibility, including the following:
- (a) the extent to which the dwelling is covered by a structural guarantee, warranty or insurance;
 - (b) whether a claim has been made under any such structural guarantee, warranty or insurance and the outcome of any such claim;
 - (c) whether legal proceedings have been initiated or concluded in relation to damage to the dwelling arising out of or in connection with pyritic heave, by or on behalf of the applicant, and, if concluded, the outcome of the legal proceedings;
 - (d) what other steps the applicant has taken to have the builder/developer remediate the dwelling.
- 6.9 If an application does not meet the conditions of eligibility, the PRB will refuse the application and will notify the applicant of the reason(s) for this decision, not later than 21 days from the making of the decision. This decision may be appealed as outlined in section 16 below.
- 6.10 **Deferral of Decisions:** Where the PRB becomes aware that a builder or developer of a dwelling, has instituted or invoked dispute resolution procedures arising out of or in connection with pyritic heave affecting a dwelling owned by an applicant, the making of a decision in relation to that dwelling may be deferred. The applicant will be given the opportunity to make a submission in relation to such deferral before the decision is made. Such deferrals will also be reviewed periodically and may be appealed to the Appeals Officer within 28 days of the decision to defer.

7 Assessment, Verification and Recommendation Process

- 7.1 Following validation, the application is referred to the Housing Agency and the Assessment, Verification and Recommendation process is undertaken. Confirmation that the damage recorded in the Building Condition Assessment Report is attributable to pyritic heave will be established at this stage. This may involve inspection of the dwelling and the testing of the hardcore material.

- 7.2 When submitting an application, the applicant consents to hardcore samples being taken and laboratory testing of the hardcore, to establish if pyrite and secondary minerals that may be associated with heave are present.
- 7.3 Damage Verification, i.e. confirmation of damage attributable to pyritic heave, may be based on an individual dwelling or associated dwellings. Associated dwellings may thus be verified on the basis of comparable damage and /or earlier tests with similar results.
- 7.4 Testing for the purpose of damage verification will be undertaken by reference to I.S. 398: 2017 Part 1.
- 7.5 The Housing Agency, having considered any report produced during the process and all information contained in the application, shall furnish a recommendation to the Decision Maker appointed by the PRB including reasons therefore, to:
- (a) include the dwelling in the Scheme, or
 - (b) exclude the dwelling from the Scheme.

8 Approval for Remediation

- 8.1 The PRB appointed Decision Maker will consider the recommendation of the Housing Agency, under paragraph 7.5, and, where he/she agrees with the recommendation, will notify the applicant of the decision to:
- (a) include the dwelling in the Scheme, or
 - (b) exclude the dwelling from the Scheme.
- The notice will be given not later than 21 days following the making of that decision.
- 8.2 Where the Decision Maker disagrees with the recommendation of the Housing Agency he/she will refer the application to the Board (i.e. Chairman and members of the Pyrite Resolution Board) for decision, and the applicant will be notified accordingly.
- 8.3 A decision to exclude a dwelling from the Scheme may be appealed to the Board, or the Appeals Officer appointed by the Minister, as appropriate. See also Section 16.

- 8.4 If the decision is to include the dwelling in the Scheme, the applicant is referred to as a 'scheme participant' thereafter.
- 8.5 A scheme participant may recoup the vouched cost of the Building Condition Assessment Report, subject to a maximum limit of €500 (including VAT), once the dwelling is included in the Scheme.
- 8.6 An applicant, whose dwelling is excluded from the Scheme, may reapply if the qualifying criteria are subsequently satisfied.

9 Pyrite Remediation Works

- 9.1 Once a dwelling is included in the Scheme, the Housing Agency will implement the remediation process and will undertake procurement of professional services and the remediation contracts.
- 9.2 The procurement of consultants, contractors and service providers will be undertaken by the Housing Agency in accordance with national procurement guidelines and EU procurement regulations. Specifically, procurement of consultants and contractors shall be in accordance with the European Communities (Award of Public Authorities' Contracts) Regulations 2006 - S.I. No. 329 of 2006, where applicable.
- 9.3 Works undertaken to remediate the dwelling will be carried out in accordance with I.S. 398-2: 2013: Reactive pyrite in sub-floor hardcore material – Part 2: Methodology for remediation works.
- 9.4 Normally, the reinstatement of the building elements will be on a 'like for like' basis relative to a standard that existed prior to the occurrence of damage caused by pyritic heave, having regard to good building practice.
- 9.5 Replacement of finishes will generally be on a 'like for like' basis, determined by the Housing Agency, following consultation with the scheme participant prior to commencement of works. However, expensive or difficult to source finishes will be replaced by finishes of good serviceable quality.
- 9.6 Fixtures and fittings, e.g. kitchen units, sanitary ware etc., will be removed as necessary by the contractor to facilitate remediation and will be reinstated on completion.
- 9.7 Any fixtures and fittings, damaged as a result of pyritic heave, will be repaired or replaced if necessary. Replacement, where necessary, will generally be on a 'like for like' basis, determined by the Housing Agency following consultation

with the scheme participant prior to commencement of works. However, expensive or difficult to source fixtures and fittings will be replaced by fixtures and fittings of good serviceable quality.

- 9.8 The completed work will be snagged by the consultant appointed to inspect and monitor the works, under the overall supervision of the Housing Agency.
- 9.9 Following the completion of the remediation works, a Certificate of Remediation will be provided to the home owner by the Housing Agency. The certificate will be as set out in Annex B of I.S. 398: Part 2: 2013. The Certificate will be completed and signed by the Design Professional and by the Contractor who undertook the works, in accordance with the requirements specified in that standard.
- 9.10 After this certificate is issued, the scheme participant may submit a claim to the Housing Agency to recoup the vouched cost of the alternative accommodation and the cost of removal and storage of the contents of the dwelling (subject to limits outlined in paragraph 12.6).

10 Dwelling Inspection

- 10.1 The PRB and Housing Agency reserve the right to authorise inspections of the dwelling, to ensure compliance with the provisions of the Scheme and the Pyrite Resolution Act 2013. These inspections may be undertaken by the PRB or Housing Agency staff and their representatives; contractors and their representatives / agents.
- 10.2 Notice will be given to the applicant/scheme participant prior to an inspection.
- 10.3 An inspection of the dwelling may be undertaken after an application is received by the PRB and up to the end of the defects period, which is normally 12 months after completion.
- 10.4 Inspections undertaken for the purpose of this Scheme, involve no warranty by the PRB or the Housing Agency or their representatives, as to the standards of the construction of the house(s)/apartment(s).

11 Communication and Co-operation

- 11.1 The PRB, the Housing Agency and their representatives will, at all times, use their reasonable endeavours to keep scheme participants informed of progress. They will consult with and take into account the views of scheme participants,

particularly in relation to the remediation works plan and the vacation of the dwelling.

- 11.2 At all stages, the scheme participant must actively and in good faith engage and co-operate with the PRB, the Housing Agency, the consultant and the contractor in order to enable the remediation works to be planned and carried out as economically and efficiently as possible.
- 11.3 In order to facilitate the preparation of the Remedial Works Plan, which establishes the extent of the works required to remediate, the scheme participant must cooperate with the PRB and Housing Agency staff and their representatives with regard to permitting access to the dwelling when required.
- 11.4 In order to facilitate the remediation of the dwelling, the scheme participant must vacate the dwelling on the specified date, which will be notified to him or her following consultation. This will be part of the written Agreement between the scheme participant and the Housing Agency, giving the scheme participant's consent to the carrying out of the remediation works.
- 11.5 Communication to an applicant/scheme participant by the PRB and Housing Agency will be by email using the mandatory email address field in the electronic application form.
- 11.6 Communication with the PRB by an applicant/scheme participant must be by email, quoting the unique reference number assigned to an application, the applicant's/scheme participant's name and the full address of the dwelling that is the subject of the application.

12 Payment of Costs

- 12.1 The procedures of the Housing Agency for the authorisation and making of payments will apply. Payments must be within the budgets and expenditure limits set for the Scheme. Purchase orders will be prepared and authorised in advance of commencement of work by consultants, contractors or other service providers. Payments to contractors and consultants shall be certified and authorised as required by the Housing Agency. Payments to scheme participants will only be on foot of vouched expenses.
- 12.2 Once a dwelling is included in the Scheme, the cost of testing, damage verification, professional services and remediation works will be borne by the Scheme.

- 12.3 The scheme participant may recoup the vouched cost of the Building Condition Assessment, subject to a maximum limit of €500 (including VAT). This may be recouped from the Housing Agency once the dwelling is approved for inclusion in the Scheme.
- 12.4 The vouched cost of the alternative accommodation, required for the dwelling occupants during the remediation works, can be recouped by the scheme participant. Recoupment of the vouched cost is subject to a monthly maximum limit of €1,500 (including VAT) and an overall limit of €4,500 (including VAT) per dwelling.
- 12.5 The vouched costs in relation to the removal, storage and return of the furniture in the dwelling, equipment and effects can be recouped by the scheme participant, subject to a maximum limit of €2,500 (including VAT) per dwelling.
- 12.6 Where the scheme participant satisfies the Housing Agency in advance that suitable rental accommodation cannot be obtained for €4,500 or less, the expenses in paragraphs 12.4 and 12.5 above may be combined, but are subject to an overall limit of €7,000 (including VAT).
- 12.7 Payment of expenses outlined in paragraphs 12.4 and 12.5 will only be approved on the submission of a schedule of costs together with receipts. Claims for payment of these expenses should be submitted to the Housing Agency when remediation works are complete.
- 12.8 Earlier payment of vouched costs, in part or in whole, set out in paragraphs 12.4 and 12.5 above may be approved by the Housing Agency where it is demonstrated, to the satisfaction of the Agency, that a payment of these costs on completion of the works would cause financial hardship.

13 Ordering of Remediation Works

- 13.1 The PRB, having regard to the need to secure the most beneficial, effective and efficient use of the funds available to the Scheme, may arrange dwellings into groups for the purpose of a project-based programme of pyrite remediation. In so arranging, the PRB shall have regard to the availability of funding and the distribution and overall severity of significant pyritic damage.
- 13.2 In the administration of the Scheme the PRB will, in determining the priorities, have regard to -
- (a) the relative severity and impact of damage attributable to pyritic heave in dwellings,

- (b) the relative urgency of the need for remediation,
 - (c) the resources (including financial resources) available or likely to be available to the PRB for the Scheme,
 - (d) any recommendation from the Housing Agency as to the priority that may be afforded to the remediation of a particular dwelling, and
 - (e) the readiness of projects to proceed, technical considerations and the availability of alternative accommodation.
- 13.3 Where the PRB has been advised by a competent person that an approved dwelling is affected by an emergency, it may give a direction to the Housing Agency to prioritise the carrying out of pyrite remediation of that dwelling on an exceptional basis.
- 13.4 The PRB appreciates that applicants/scheme participants have been waiting for a considerable period for an effective solution for the remediation of pyritic damage to their dwellings. The cooperation and understanding of applicants/scheme participants is required during the processing of applications and scheduling of remediation works.

14 General Provisions

- 14.1 The Scheme is administered by the PRB and the Housing Agency and is funded by the Exchequer.
- 14.2 The PRB, in conjunction with the Housing Agency, will ensure that proper oversight and audit of expenditure procedures are established. The Housing Agency will report on a regular basis to the PRB on actual and committed expenditure. The internal audit reports of the Housing Agency as they relate to the pyrite remediation works will be furnished to the PRB. The external audit of accounts and expenditure will be carried out by the Comptroller and Auditor General.
- 14.3 Submission of an application is deemed as acceptance by the applicant of the provisions of the Scheme.
- 14.4 Payment of all costs as provided for in this Scheme may be subject to the condition that a tax clearance certificate from the Revenue Commissioners be furnished before a payment can be issued.

- 14.5 In general, all records in relation to the Pyrite Remediation Scheme will be retained for a minimum of six years, and longer where required under legislation or for accounting purposes. In particular, records of applications by home owners, engagement of consultants and contractors, testing, contract documents, remedial works drawings and specifications, and certification will be retained. The appropriate data protection procedures shall be applied to all personal data. Appropriate security controls will be put in place for the online application system. The servers for the online data shall be kept in an appropriately secure data centre.

15 Refund of Compensation

- 15.1 Where a scheme participant receives payment in respect of pyrite damage to his or her dwelling other than under the Scheme and where the PRB has commenced or completed remediation works to the dwelling concerned, he/she will be required to refund the PRB the cost of the remediation or the amount of the payment if that is the lesser amount.
- 15.2 Where a dwelling has been included in the Scheme but the work has not commenced and the scheme participant receives a payment other than under the Scheme, the PRB will advise the scheme participant that, as a condition for continued inclusion in the Scheme, he/she will be required to make payment to the PRB within a specified time period. In the event that such payment is not made, the PRB will be entitled to exclude the dwelling from the Scheme.
- 15.3 The PRB can recover any amount due as a simple contract debt in a court of competent jurisdiction.

16 Appeals

- 16.1 Part 5 of the Act sets out the circumstances where appeals by aggrieved applicants may be made to:
- (a) the Pyrite Resolution Board (comprising the Chairman and other Board Members),
 - (b) an Appeals Officer appointed by the Minister,
 - (c) the High Court (on a point of law only).

In general, where the decision to refuse the application is made by the PRB appointed Decision Maker, the appeal lies to the Board of the PRB. Where the decision (including a decision to defer) is made by the Board the appeal lies to the Appeals Officer. A determination of an appeal by the Board may not be appealed to the Appeals Officer but may be appealed to the High Court on a point of law. A determination of the Appeals Officer may also be appealed to the High Court on a point of law.

The Pyrite Resolution Board will prescribe procedures for making and determining appeals to the Board.

The Minister will prescribe procedures for making and determining of appeals to the Appeals Officer.

Both sets of procedures will be published on the PRB's website, www.pyriteboard.ie, as soon as they are made.

- 16.2 The Act sets out time periods within which an applicant can make an appeal following being notified of a decision. Typically, this is 28 days.

17 Offences and Penalties

- 17.1 It is an offence to furnish a false document or information to the PRB or an Appeals Officer, for the purpose of inclusion of a dwelling in the Scheme or fail to notify the PRB if a payment is received in respect of the damage caused by pyritic heave. A person guilty of such an offence may be liable to a fine, costs and expenses.