

# DÁIL ÉIREANN

*Fógra Tairisceana : Notice of Motion*

## **GNÓ COMHALTAÍ PRÍOBHÁIDEACHA PRIVATE MEMBERS' BUSINESS**

“That Dáil Éireann:

notes that:

- thousands of people in Ireland have been affected by poor quality housing following the building boom of the past 20 years;
- the record of the current Government and the previous Government is one of clear failure to properly regulate the building industry, and of regression of building standards;
- there is a commitment in the Programme for a Partnership Government to provide quality housing;
- effective building regulation requires an independent regulator and not self-regulation by the building industry;
- claims have been made by the Construction Industry Federation (CIF) that it will draft upcoming Government legislation in this area;
- with the exception of the Pyrite Panel, there has been no public enquiry or reflection on the causes of the widespread quality problems in housing, which continue to emerge and which are a heavy burden on the lives of those affected;
- there has been no law reform that addresses the lack of remedies available to homeowners affected by pyrite, building regulations breaches and other housing failures;
- the availability of effective remedies for defects when they occur is an essential part of the quality of housing;
- the defects in housing resulting from this situation include defects which cause risks to life, health and wellbeing as well as creating environmental damage and economic costs;
- Irish home buyers in both the public and private sectors are poorly served by the law, as it stands:
  - the builder may be insolvent;
  - the building contractor may not be available to provide a remedy when the defect appears (for example, where the house or apartment has been sold);
  - the Statute of Limitations may bar the action; and
  - there may be no defects insurance policy available to pay for the repair works;
- these problems have not been addressed by the Building Control (Amendment) Regulations 2014, as while the regulations provide for mandatory inspections by certifiers appointed by building owners/developers and which require a certificate of compliance with building regulations to be lodged with the local building control authority before a new building is opened, occupied or used and are changing the culture of construction regulation, they do not create new legal remedies for home owners;
- the Law Reform Commission has proposed appropriate legislation on several occasions to deal with many of these issues and there is also a commitment in Construction 2020 ‘to consider and report on potential forms of redress for consumers and homeowners, including the potential for latent defects insurance’ and that redress must include new legal remedies; and

- many housing defects have ultimately been rectified at the expense of the State, rather than those responsible for those defects; and

calls on the Government to:

- introduce new primary legislation to include a transmissible warranty of quality and assignment of causes of action in negligence from builders and those involved in the building process, in favour of the first and subsequent purchasers of houses;
- direct the carrying out of a feasibility exercise and business case for the creation of an Irish Building Authority, to which the functions of the existing building control authorities would be transferred, that would administer building control on a nationwide basis, and that would provide a supervisory regulatory function in relation to those involved in the construction industry, including contractors, sub-contractors and others involved in the construction process as appropriate;
- consider the development and use of alternative forms of contract for delivery of housing;
- engage with the Law Society and the CIF to initiate a review of the standard form building agreement used for residential construction, to consider amendments to the agreement to facilitate consumer protection, including amendment of the dispute resolution provision, and removal of the restriction on transfer of the agreement upon sale of the unit;
- establish a consumer-friendly system of dispute resolution for homeowners dealing with defective housing;
- amend the Statute of Limitations 1957 to implement the recommendations of the Law Reform Commission in relation to building defects;
- review and evaluate the resourcing of building control for local authorities, recognising that their role and objectives are quite different to the role and objectives of private building control certifiers, who are appointed to protect the interests of building owners rather than the interests of the general public in ensuring compliance with the Building Control Acts; and
- prepare and publish options for the financing and carrying out of remedial works to defective housing units, that will form the basis for a nationwide scheme, enshrined in legislation, for the orderly remediation of legacy defects in housing.” — *Catherine Martin, Eamon Ryan.*

[9 June, 2017]