STATUTORY RULES OF NORTHERN IRELAND

# 2021 No. 252

# FINANCIAL ASSISTANCE

## The Financial Assistance (Aluminium Composite Material (ACM) Remediation Fund) (Private Residential Properties over 18m) Regulations (Northern Ireland) 2021

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| *Made - - - -* | *14th September 2021* |
| *Coming into operation -* | *6th October 2021* |

The Department of Finance (**a**) in exercise of the powers conferred by sections 1(2) of the Financial Assistance Act (Northern Ireland) 2009(**b**), makes the following Regulations.

**Citation and commencement**

**1.** These Regulations may be cited as The Financial Assistance (Aluminium Composite Material (ACM) Remediation Fund) (Private Residential Properties over 18m) Regulations (Northern Ireland) 2021 and come into operation on 6th October 2021.

**The Financial Assistance (Aluminium Composite Material (ACM) Remediation Fund) (Private Residential Properties over 18m) Regulations (Northern Ireland) 2021**

**2.** The Department of Finance makes the Scheme set out in the Schedule.

Sealed with the Official Seal of the Department of Finance on 14th September 2021.

(L.S.)

*Sharon Smyth*
A senior officer of the Department of Finance

Approved by the Executive Office
Sealed with the Official Seal of the Executive Office on 14th September 2021.

(L.S.)

*Neill Jackson*
A senior officer of the Executive Office

(**a**) The Department of Finance and Personnel was renamed the Department of Finance by section 1(4) of, and Schedule 1 to, the Departments Act (Northern Ireland) 2016 (c.5 (N.I.))
(**b**) 2009 c. 2

# SCHEDULE

Regulation 2

# The Financial Assistance (Aluminium Composite Material (ACM) Remediation Fund) (Private Residential Properties over 18m) Regulations (Northern Ireland) 2021

**Citation**

**1.** This Fund may be cited as the Financial Assistance (Aluminium Composite Material (ACM) Remediation Fund) (Private Residential Properties over 18m in height) Northern Ireland Fund 2021.

**Interpretation**

**2.** For the purposes of this Fund:

"Unsafe ACM Cladding" means those cladding systems that have been identified as containing combustible materials (e.g. polyethylene core in an aluminium composite panel) and which failed the BS8414 tests;

"Cladding System" refers to the components that are attached to the primary structure of a building to form a non-structural external surface including the weather-exposed outer layer or screen, fillers, insulation, membranes, brackets, cavity barriers, flashing, fixing, gaskets and sealants;

"Department" means the Department of Finance;

"Responsible entity" means a building freehold or head leaseholder or a management company who has primary responsibility for the repair of the property. A management company which is not a responsible entity can apply and manage the application as an agent for the responsible entity.

**Purpose of the Fund**

**3.** Support under this Fund is to be provided for the benefit of leaseholders in residential properties over 18 metres in height (or within the 30cm tolerance) who would otherwise have an obligation to meet the cost of cladding remediation by virtue of provisions in their leases.

**Scope of the Fund**

**4.**—(1) The Fund will provide a grant to cover the reasonable cost of the following items (a) to (c);

(a) the costs for the following works directly related to the replacement of Unsafe ACM Cladding System:

(i) access (e.g. scaffolding, mast climber etc.) (only where apportioned appropriately directly related qualifying works);

(ii) removal and disposal of existing cladding;

(iii) replacement materials; and

(iv) labour and reasonable on-costs to the contractor.

(b) professional team fees in respect of qualifying items;

(c) managing agents fees in respect of administering qualifying expenditure,

(2) Eligible costs will be those costs which can be attributed to the capital costs of the project.

(3) Ongoing revenue costs, such as the cost of interim safety measures, are not eligible.

**Exclusions**

**5.** The Fund will not cover:

(a) works which are not directly related to the remediation of Unsafe ACM Cladding Systems even where these may be planned to be undertaken at the same time;

(b) other necessary fire safety works which are not related to an Unsafe ACM Cladding System;

(c) operational running costs, including those associated with interim measures;

(d) non-private residential buildings (i.e. hotels, hostels, purpose-built student accommodation are excluded);

(e) buildings under 18 metres in height (allowing for the 30cm tolerance);

(f) unsafe non-ACM cladding systems;

(g) buildings where the warranty claim for the full costs remediation has been accepted by the insurer;

(h) costs which would otherwise be claimed through the service charge provision in the lease.

**Fund Eligibility**

**6.**—(1) To be eligible for the Fund, applicants shall provide evidence to demonstrate that:

(a) Unsafe ACM cladding is fitted to their residential property (which is over 18 metres in height (or within the 30cm tolerance));

(b) the Unsafe ACM cladding will be replaced with materials of limited combustibility that have been classified as European Class A1 or A2-s1, D0 ;

(c) leaseholders have used all reasonable endeavours to identify and pursue claims against those involved in the original cladding installations to pursue insurance and warranty claims; and

(d) leaseholders would otherwise have an obligation to meet the cost of cladding remediation by virtue of provisions in their leases.

(2) Evidence that Unsafe ACM cladding needs remediated will be either a copy of a screening test carried out by a competent authority (such as Building Research Establishment (BRE)) or documentary evidence that the type of ACM matches the specification of ACM cladding that failed the government's BS8414 tests.

(3) Leaseholders of properties comprising mixed residential and commercial use will be considered within the scope of the Fund.

**Obligations for the Responsible Entity**

**7.** The responsible entity shall:-

(a) make the application for funding (a single application is required for the private residential property over 18 metres in height);

(b) enter into the funding agreement with the Department;

(c) engage with leaseholders and residents in matters such as:

(i) confirmation that an application for funding has been submitted;

(ii) the nature of the works they intend to carry out;

(iii) regular updates on progress of their application and remediation works; and

(iv) the timescale for the completion of works.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations provide for the Department of Finance to provide grant funding to leaseholders for the replacement of unsafe ACM cladding systems on private residential properties over 18m in height.

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