

Defective Premises Bill

[AS INTRODUCED]

LEGISLATIVE COMPETENCE

At Introduction the Minister for Communities had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Defective Premises Bill would be within the legislative competence of the Northern Ireland Assembly.”

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BILL

TO

Amend the law as to liability for defects in the state of dwellings; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by His Majesty as follows:

Duties relating to work to dwellings

1.—(1) In the Defective Premises (Northern Ireland) Order 1975 after Article 4 insert—

“Duties relating to work to dwellings

5 4A.—(1) This Article applies where a person, in the course of a business, takes on work in relation to any part of a building consisting of or containing one or more dwellings.

(2) The person owes a duty to—

- 10 (a) the person for whom the work is done, and
(b) each person who holds or acquires an interest (whether legal or equitable) in a dwelling in the building,

to see that the work is done in a workmanlike or (as the case may be) professional manner, with proper materials and so that as regards the work the dwelling is fit for habitation when the work is completed.

15 (3) The duty under this Article does not apply in relation to a dwelling if—

- (a) the work taken on is work for or in connection with the provision of the dwelling (as to which see Article 3), or
20 (b) it is expected that, on completion of the work, it will have ceased to be a dwelling or will otherwise have ceased to exist.

(4) A person (A) who takes on any work to which this Article applies for another (B) on terms that A is to do it in accordance with instructions given

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by or on behalf of B is, to the extent to which A does it properly in accordance with those instructions, to be treated for the purposes of this Article as discharging the duty imposed on A by this Article except where A owes a duty to B to warn B of any defects in the instructions and fails to discharge that duty.

(5) A person is not treated for the purposes of paragraph (4) as having given instructions for the doing of work merely because the person has agreed to the work being done in a specified manner, with specified materials or to a specified design.

(6) A person who, in the course of a business which consists of or includes carrying out or arranging for the carrying out of work of a kind mentioned in paragraph (1), arranges for another to take on work of that kind is treated for the purposes of this Article as included among the persons who have taken on the work.

(7) For the purposes of the Limitation (Northern Ireland) Order 1989, a cause of action in respect of a breach of a duty imposed by this Article is treated as accruing at the time the work is completed; but if after that time a person does further work to rectify the work the person has already done, any such cause of action in respect of that further work is treated as accruing at the time when the further work is finished.”.

(2) The amendment made by this section applies in relation to work completed after the coming into operation of this section.

Limitation periods

2.—(1) After Article 8 of the Limitation (Northern Ireland) Order 1989 insert—

“Time limit: actions in respect of defective premises, etc.

8A.—(1) The following actions may not be brought after the expiration of 15 years from the date on which the right of action accrued—

(a) an action by virtue of Article 3 or 4A of the Defective Premises (Northern Ireland) Order 1975;

(b) an action by virtue of Article 20 of the Building Regulations (Northern Ireland) Order 1979.

(2) The time limits fixed by other provisions of this Part do not apply to an action mentioned in paragraph (1).

(3) Where by virtue of Article 3 of the Defective Premises (Northern Ireland) Order 1975 a person became entitled, before the coming into operation of section 2 of the Defective Premises Act (Northern Ireland) 2024, to bring an action against any other person, this Article applies in relation to the action as if the reference in paragraph (1) to 15 years were a reference to 30 years.”.

(2) The amendment made by subsection (1) in relation to an action by virtue of Article 3 of the Defective Premises (Northern Ireland) Order 1975 is to be treated as always having been in operation.

(3) In a case where—

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(a) by virtue of Article 3 of the Defective Premises (Northern Ireland) Order 1975 a person became entitled, before the day on which this section came into operation, to bring an action against any other person, and

5 (b) the period of 30 years from the date on which the right of action accrued expires in the year beginning with the coming into operation of this section,

Article 8A of the Limitation (Northern Ireland) Order 1989 (inserted by subsection (1)) has effect as if it provided that the action may not be brought after the end of that year.

10 (4) Where an action is brought that, but for subsection (2), would have been barred by the Limitation (Northern Ireland) Order 1989, a court hearing the action must dismiss it in relation to any defendant if satisfied that it is necessary to do so to avoid a breach of that defendant's Convention rights (within the meaning of the Human Rights Act 1998).

15 (5) Nothing in this section applies in relation to a claim which, before this section came into operation, was settled by agreement between the parties or finally determined by a court or arbitration (whether on the basis of limitation or otherwise).

Defective premises: transfer of functions

20 **3.**—(1) The functions which immediately before the coming into operation of this section are exercisable by the Department of Agriculture, Environment and Rural Affairs under or for the purposes of the Defective Premises (Northern Ireland) Order 1975 are transferred to the Department for Communities.

(2) Accordingly, in Article 2(2) of that Order for the definition of “the Department” substitute—

““the Department” means the Department for Communities;”.

Short title and commencement

4.—(1) This Act may be cited as the Defective Premises Act (Northern Ireland) 2024.

30 (2) This Act comes into operation on the day after the day on which it receives Royal Assent.

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[AS INTRODUCED]

A Bill to amend the law as to liability for defects in the state of dwellings; and for connected purposes.

Introduced by: Mr Gordon Lyons, Minister for Communities

On: 20 May 2024

Bill Type: Executive Bill

ACCOMPANYING DOCUMENTS

**An Explanatory and Financial Memorandum is printed separately as
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