L.N. 137 of 1990

HOME OWNERSHIP (ENCOURAGEMENT) ACT, 1988

(ACT NO. XXVIII OF 1988)

Home Ownership (Encouragement) (Subsidy on Adaptation Works Scheme) Regulations, 1990

IN exercise of the powers conferred by section 3 of the Home Ownership (Encouragement) Act, 1988, the Director of Social Housing, with the approval of the Parliamentary Secretary in the Ministry for Social Policy with responsibility for Housing, has made the following regulations:—

Citation.

1. These regulations may be cited as the Home Ownership (Encouragement) (Subsidy on Adaptation Works Scheme) Regulations, 1990.

Making of Scheme.

2. The Scheme entitled Subsidy on Adaptation Works Scheme, 1990 (Scheme SHD 15) in the Schedule to these regulations shall have effect from the coming into force of these regulations for the encouragement of home ownership in Malta and shall substitute the scheme mentioned in the following regulation.

Revocation of Scheme HD 12.

3. The scheme entitled Subsidy on Adaptation Works in Owner Occupied Dwellings, Scheme HD 12, published by Government Notice 124 in the Government Gazette of the 16th February, 1988, is hereby revoked.

SCHEDULE

(Regulation 2)

Subsidy on Adaptation Works Scheme, 1990 (Scheme SHD 15)

Citation.

1. This Scheme may be cited as the Subsidy on Adaptation Works Scheme, 1990 (Scheme SHD 15) and shall apply to applications for assistance in the adaptation and improvement of owner occupied dwelling-houses by persons to whom this Scheme applies.

Interpretation.

2. In this Scheme unless the context otherwise requires:—

"applicant" means a person who applies for assistance under this Scheme for the carrying out by him of adaptation or improvement works in a dwelling-house of which he is the owner and occupied by him as his ordinary residence;

Act XV of 1976.

"the Authority" means the Housing Authority established by section 3 of the Housing Authority Act, 1976;

"basic year" means the year immediately preceding the year in which an application under this Scheme is made;

"beneficiary" has the same meaning assigned to it in section 2 of the principal Act;

"the Director" means the Director of Social Housing and includes any person authorised to act in his behalf;

"dwelling-house" has the same meaning assigned to it in section 2 of the principal Act;

"Government" means the Government of Malta;

"ordinary residence" does not include a summer residence;

"owner" includes a co-owner and a person holding a dwelling-house under a title of perpetual emphyteusis;

"prescribed" means prescribed by the Director;

"the principal Act" means the Home Ownership (Encouragement) Act, 1988.

Applications for Assistance.

3. (1) Any person qualified to do so under this Scheme may, not later than the 31st December, 1990, make an application on the prescribed form to the Director requesting assistance for adaptation or improvement works, or for both, of the kind specified in clause 7 of this Scheme, in a dwelling-house occupied by him as his ordinary residence and of which he is the owner.

(2) A person shall qualify to make an application under this Scheme where, on the date of the application:

(a) the applicant or, in the case of a married couple, the applicant's spouse, is a citizen of Malta; and

(b) the applicant is a resident of Malta and has been so resident continuously for not less than twelve consecutive months immediately preceding the date of the application; and

(c) the annual income of the applicant assessed in accordance with the provisions of clause 5 of this Scheme does not exceed three thousand Maltese liri (Lm 3,000) for the basic year.

(3) Subject to the provisions of sub-clause (2) of this clause, an application by persons engaged to each other shall be made in their joint names and both must be over eighteen years of age. In such a case they shall be jointly and severally liable for the carrying out of all the conditions laid down in this Scheme.

(4) Saving the provisions of sub-clause (5) of this clause, a person shall not qualify to make an application under this Scheme where:—

(a) the applicant or the applicant's spouse has already benefited from any assistance under what used to be known as the "Home Ownership Scheme", or from the Scheme published by Government Notice 124 in the Government Gazette of the 16th February, 1988, or from any other assistance for the encouragement of home ownership by the Department of Social Housing or by the Land Department or by the Authority or by any of them jointly;

(b) assistance under this Scheme has already been granted in respect of works to be carried out in the same dwelling-house to which the application refers.

(5) A person who has already benefited under:

(a) any scheme for the subsidisation of rent; or

(b) any of the schemes published by Government Notices Numbers 125, 127, 128, 129, and 130 in the Government Gazette of the 16th February, 1988; or

(c) the Subsidy on Interest on House Loans (Private Sector) Scheme, 1990 (Scheme SHD 16); or

(d) the Purchase of Government Dwelling-Houses Scheme, 1990 (Scheme E); or

(e) the Purchase of Private Dwelling-Houses Scheme, 1990 (Scheme F);

shall not for that reason alone be disqualified from making an application under this Scheme:

Provided that any person who has already benefited from the Scheme mentioned in paragraph (c) of this sub-clause shall not qualify to benefit under clause 9 of this Scheme.

(6) Any expenses incurred by the applicant in connection with his application shall not be recoverable by the applicant whether or not his application is successful.

Legally separated spouses.

4. An applicant who is legally separated from his spouse shall produce a copy of the final judgement of the competent court pronouncing separation or a copy of the public deed effecting separation by mutual consent of the spouses with the authority of the competent court.

Assessment of income.

5. (1) For the purposes of this Scheme, the income of the applicant shall include:—

(a) gross gains or profits from any trade, business, profession or vocation excluding social insurance contributions;

(b) gross gains or profits from any employment or office excluding social insurance contributions and any earnings from working overtime;

(c) gross gains or profits arising from the sale of any property or from the carrying on or carrying out of any profit-making undertaking or scheme;

(d) dividends, interests or discounts;

(e) any pension, charge, annuity or annual payment;

(f) rents, royalties, premiums and any other profits arising from property;

(g) the value of any produce receivable in respect of the use of capital, property, seed or stock for the purpose of husbandry or any share of profits receivable in respect of such use;

(h) any social benefit or allowance excluding any Children's Allowance, Special Allowance, Parental Allowance and Handicapped Child Allowance payable under the Social Security Act, 1987;

(i) any gains or profits falling under the descriptions in the foregoing paragraphs made by the applicant's spouse or fiancée/fiancé;

(j) any other gains or profits.

(2) Where the applicant, and in the case of a married or engaged couple, the applicant or his spouse or fiancée/fiancé, or both, were gainfully occupied during only a part of the basic year, the gains or profits from such occupation shall be projected *pro rata* for the whole basic year provided that the applicant, spouse or fiancée/fiancé, as the case may be, is gainfully occupied on the date the Director receives the application.

Information.

6. (1) The applicant and any member of the applicant's family shall give all that information regarding their financial means as they may be required to give by the Director and for this purpose they shall authorise the Commissioner of Inland Revenue, the Director of Social Security and any other person as may be necessary, to give the Director any information concerning their income during the basic year.

(2) The Director may require the applicant to sign any declaration he may consider necessary for the carrying out of this Scheme and the applicant shall allow the Director to inspect his ordinary residence and any other tenement held by him as the Director may require.

Adaptation or improvement works.

7. The adaptation and improvement works to which this Scheme applies are:

(a) repairs to dangerous structures;

(b) the replacement of old water and electricity installations;

(c) improvement works in bathrooms below an acceptable standard;

(d) the construction of additional rooms for the improvement of accommodation in accordance with the needs of the size of the applicant's family;

(e) the construction of wells;

(f) the substitution of worn floor tiles;

(g) repairs to an old drainage system or its substitution;

(h) the replacement of doors or apertures or both, as the case may be, which are below an acceptable standard:

Provided that the provisions of this Scheme shall not apply to any works commenced or carried out before the approval by the Director of the application made in respect of those works.

Cash grants.

8. (1) Where the dwelling-house was constructed and ready for habitation before the 1st January, 1960, the Director may grant any person qualified to make an application under this Scheme an amount of money in cash as assistance for the carrying out in the said dwelling-house of the works referred to in the application in accordance with the following provisions of this clause.

(2) Where the applicant was already the owner and was already living in the dwelling-house on the date of the coming into force of this Scheme, the cash grant which may be paid by the Director shall not exceed five hundred Maltese liri (Lm 500) and in any case shall not exceed 60% of the total cost of the works to be carried out and approved by the Director:

Provided that where the works to be carried out fall under paragraph (c) of clause 7 of this Scheme the cash grant shall not exceed three hundred and fifty Maltese liri (Lm350).

(3) Subject to the provisions of sub-clause (4) and saving the provisions of sub-clause (6) of this clause, where the applicant became the owner of the dwelling-house after the date of the coming into force of this Scheme:—

(a) where the said dwelling-house was constructed and ready for habitation before the 1st January, 1939, the cash grant which may be paid by the Director shall not exceed one thousand and five hundred Maltese liri (Lm1,500) and in any case shall not exceed 80% of the total cost of the works to be carried out and approved by the Director;

(b) where the said dwelling-house was constructed and ready for habitation on or after the 1st January, 1939, the cash grant which may be paid by the Director shall not exceed one thousand Maltese liri (Lm1,000) and in any case shall not exceed 80% of the total cost of the works to be carried out and approved by the Director:

Provided that where the works to be carried out fall under paragraph (c) of clause 7 of this Scheme the cash grant shall not exceed three hundred and fifty Maltese liri (Lm350):

Provided also that any person whose application in accordance with the provisions of this sub-clause has been approved by the Director shall be required to enter into a public deed with the Director and should that person fail to appear on the deed when called upon to do so by the Director his application shall be deemed to have been abandoned and any approval by the Director of the said application shall be without any effect.

(4) where the applicant became the owner of the dwelling-house after the coming into force of this Scheme by virtue of being a beneficiary under:—

(a) any of the schemes published by Government Notices Numbers 127, 128, 129, and 130 in the Government Gazette of the 16th February, 1988; or

(b) the Purchase of Government Dwelling-Houses Scheme, 1990 (Scheme E); or

(c) the Purchase of Private Dwelling-Houses Scheme, 1990 (Scheme F);

the provisions of sub-clause (2) of this clause shall apply as if the applicant was already the owner and was already living in the dwelling-house on the date of the coming into force of this Scheme.

(5) The works approved by the Director shall be completed within six months from the date of such approval and, saving the provisions of sub-clause (6) of this clause, any grant under this clause is payable when the Director has determined that the said works have been carried out as approved by him.

(6) Where the application is made under the provisions of sub-clause (3) of this clause and the applicant cannot occupy the dwelling-house before the works have been carried out:

(a) in the case of a married applicant the cash grant shall not be paid before the applicant occupies the dwelling-house;

(b) in the case of an application by persons engaged to each other the applicants shall occupy the dwelling-house within 18 months from the date of the approval of the cash grant.

(7) The Director may also approve the subsidisation of a loan as provided in clause 9 of this Scheme saving the provisions of sub-clause (3) of that clause.

Subsidised loans.

9. (1) Where the dwelling-house was constructed and ready for habitation on or after the 1st January, 1960 the Director may approve the subsidisation of a loan agreed to between an applicant qualified to make an application under this Scheme and a financial institution approved by the Director in which case the provisions of sub-clause (2) of this clause shall apply.

(2) The amount of any loan which may attract a subsidy under the provisions of sub-clause (1) of this clause shall not exceed two thousand Maltese liri (Lm 2,000) and the subsidy shall be such that the interest payable by the applicant shall not at any time exceed 3%.

(3) The foregoing provisions of this clause shall not apply to any applicant who is a beneficiary under the Subsidy on Interest on House Loans (Private Sector) Scheme, 1990 (Scheme SHD 16).

Transfer by the beneficiary.

10. (1) Any dwelling-house whose owner is a beneficiary under paragraphs (a) or (b) of sub-clause (3) of clause 8 of this Scheme shall not be transferred under any title, other than *causa mortis*, by the beneficiary unless he complies with the following provisions of this clause.

(2) Where the transfer is to take place within the period of ten years from the date of the grant of any assistance under this Scheme, as shown in the first column of the Table annexed to the same Scheme, the beneficiary shall, before the transfer is effected, refund to the Director the whole or part of the value of any grant and subsidy made under this Scheme as laid down in the second column of the said Table.

(3) Where the transfer is to take place after ten years from the date of the grant of any assistance under this Scheme the beneficiary shall give the Director one month's notice of his intention to transfer the said dwelling-house and the Director shall thereupon terminate any arrangement for the subsidy under this Scheme of any interests payable by the beneficiary.

(4) The provisions of sub-clauses (2) and (3) of this clause shall also apply *mutatis mutandis* where the beneficiary does not continue to occupy the dwelling-house as his ordinary residence.

Effects of dissolution of engagement on joint applications by engaged persons.

11. (1) In the case of a joint application be engaged persons, where the engagement is subsequently dissolved:

(a) both applicants shall, within thirty days from the date of such dissolution, give notice thereof to the Director;

(b) the Director shall immediately suspend any subsidy on interests and any further withdrawals on any loan account pending investigations and his final decision thereon;

(c) the applicants shall, within thirty days from the date of the notice mentioned in paragraph (a) of this sub-clause and in accordance with and subject to the conditions laid down in the provisions of clause 10 of this Scheme, jointly request in writing authority to transfer under a title of sale or perpetual emphyteusis the dwelling-house in respect of which their application had been approved;

(d) the applicants shall, within three months from the date of the approval of their request made according to paragraph (c) of this sub-clause, transfer the said dwelling-house as aforesaid:

Provided that the Director may extend the mentioned period of three months as he may deem fit.

(2) Where the applicants fail to comply with the provisions of paragraph (a) of sub-clause (1) of this clause the provisions of paragraph (b) of the same sub-clause shall apply from the date that the Director becomes otherwise aware of the dissolution of the engagement.

(3) Where, notwithstanding the efforts of the applicants to comply with the provisions of paragraphs (c) and (d) of sub-clause (1) of this clause, the transfer of the dwelling-house cannot take place within the period laid down in the said paragraph (d) because no purchaser or acquirer of the dwelling-house comes forward to conclude the transfer, the Director shall have the right to purchase or acquire the said dwelling-house from the applicants at a price fixed by an architect designated for the purpose by the Director or to require the applicants to authorise him to transfer as aforesaid the same dwelling-house on their behalf.

(4) Where the Director exercises his aforesaid right to purchase or acquire the dwelling-house, from the price determined in accordance with the provisions of sub-clause (3) of this clause the Director shall deduct any grant or subsidies from which the applicants benefited under this Scheme and all expenses and penalties as determined by the Director and the remaining balance shall be the amount payable to the applicants on the deed of transfer saving any obligations entered into by them in favour of the financial institution approved by the Director in respect of any loan advanced to them.

Penalty for false declarations.

12. (1) If at any time it results that the applicant has made a false declaration for the purposes of any application made by him under the provisions of this Scheme the applicant, without prejudice to any punishment for which he may have become liable under any other law, shall be liable to the payment to the Director of a penalty equivalent to the amount of any grant and of any subsidy received by the applicant under this Scheme.

(2) Any person who has made a false declaration as provided in sub-clause (1) of this clause shall be disqualified for a period of five years from benefiting from any scheme made with the approval of the Parliamentary Secretary responsible for housing.

Lodgement and abandonment of applications.

13. (1) Any application under this Scheme shall be lodged personally or by registered post by the applicant with the Director.

(2) Where any applicant, when called upon to do so by the Director, fails to appear on the public deed mentioned in the second proviso of sub-clause (3) of clause 8 of this Scheme his application shall be deemed to have been abandoned.

Right of refusal.

14. Notwithstanding anything contained in the foregoing provisions of this Scheme the Director shall have the right to refuse any application.

TABLE

(Clause 10)

First Column Period in Years After Date of Grant of Assistance	Second Column Repayment of Grant and Subsidy
less than 4	100%
4 or more but less than 5	85%
5 or more but less than 6	70%
6 or more but less than 7	55%
7 or more but less than 8	40%
8 or more but less than 9	25%
9 or more but less than 10	10%.

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