L.N. 139 of 1990

HOME OWNERSHIP (ENCOURAGEMENT) ACT, 1988 (ACT NO.XXVIII OF 1988)

Home Ownership (Encouragement) (Purchase of Government Dwelling-Houses Scheme) Regulations, 1990

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

1. These regulations may be cited as the Home Ownership (Encouragement) (Purchase of Government Dwelling-Houses Scheme) Regulations, 1990. Citation.

2. The Scheme entitled Purchase of Government Dwelling-Houses Scheme, 1990 (Scheme E) in the Schedule to these regulations shall have effect from the date of the coming into force of these regulations for the encouragement of home ownership in Malta and shall lapse one year after that date. Making of Scheme.

SCHEDULE

(Regulation 2)

Purchase of Government Dwelling-Houses Scheme, 1990 (Scheme E)

1. This Scheme may be cited as the Purchase of Government Dwelling-Houses Scheme, 1990 (Scheme E) and shall apply to applications for the purchase of dwelling-houses which are the property of the Government by persons to whom this Scheme applies. Citation.

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

"the Act" with reference to clause 12 of this Scheme has the same meaning assigned to it in that clause;

"aggregate annual income" has the same meaning assigned to it in sub-clause (4) of clause 5 of this Scheme;

"applicant" means a person who applies for the purchase of a Government dwelling-house under this Scheme;

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

"basic year" means the year immediately preceding the year in which an application under this Scheme is made and with reference to sub-clause (5) of clause 8 it means the year immediately preceding the year in which a revision under that sub-clause is due;

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

"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;

"prescribed" means prescribed by the Authority;

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

"recognised tenant" means a person holding a Government dwelling-house under a title of lease from the Government and recognised as such by the Government.

Applications for purchase.

3. (1) Any person qualified to do so under this Scheme may make an application on the prescribed form to the Authority requesting to purchase a Government dwelling-house of which he is the recognised tenant and which is occupied by him as his ordinary residence.

(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 and the applicant's spouse or fiancée/fiancé are residents of Malta and have been so resident continuously for not less than twelve consecutive months immediately preceding the date of the application.

(3) A person shall not qualify to make an application under this Scheme if the applicant or the applicant's spouse has already benefited under:

(a) any of the schemes published by Government Notices Numbers 11 and 12 in the Government Gazette of the 6th January, 1987; or

(b) the scheme published by Government Notice Number 138 in the Government Gazette of the 20th February, 1987; or

(c) any of the schemes published by Government Notices Numbers 124, 126, 127, 128, 129 and 130 in the Government Gazette of the 16th February, 1988; or

(d) any assistance under what used to be known as the "Home Ownership Scheme" or 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.

(4) A person shall also not qualify to make an application under this Scheme if he has acquired land from the Government which had been expropriated by virtue of the provisions of the Building Development Areas Act, 1983. Act I of 1983.

(5) A person who, on the coming into force of this Scheme, has an application pending under any of the schemes published by Government Notices Numbers 127 and 128 in the Government Gazette of the 16th February, 1988 may, unless he has entered into a promise of sale agreement with the Authority in respect of that application, renounce that application and make an application under this Scheme upon payment of the administrative charge provided for in clause 13 and that charge shall not be refundable.

(6) Notwithstanding the provisions of sub-clause (3) of this clause, a person who benefits, or qualifies to benefit, under this Scheme shall not be disqualified for that reason alone from benefiting, after the coming into force of these regulations, under the scheme published by Government Notice Number 124 in the Government Gazette of the 16th February, 1988 or under any other scheme substituting it.

(7) Saving the provisions of sub-clause (1) of clause 13, 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.

Aggregate annual 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;

(b) gross gains or profits from any employment or office;

(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;

(i) subject to sub-clause (3) of this clause, any gains or profits falling under the descriptions in the foregoing paragraphs, other than those in paragraphs (a) and (b), made by the applicant's spouse or fiancée/fiancé;

(j) subject to sub-clause (3) of this clause, fifty percent (50%) of the gains or profits falling under any of the descriptions in paragraphs (a) and (b) made by the applicant's spouse or fiancée/fiancé;

(k) 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 Authority receives the application.

(3) Where the applicant was not gainfully occupied during the basic year, the provisions of paragraph (j) of sub-clause (1) of this clause shall not apply and the entire gains or profits falling under the descriptions in paragraphs (a) and (b) of the said sub-clause (1) made by the spouse or fiancée/fiancé shall be included in the applicant's income.

(4) The aggregate annual income of the applicant shall be the income of the applicant determined in accordance with the foregoing sub-clauses from which the sum of one thousand Maltese liri (Lm1,000) shall be deducted.

Information.

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

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

Purchase price.

7. (1) Where the aggregate annual income of the applicant in the basic year does not exceed six thousand Maltese liri (Lm6,000), the purchase price for the absolute ownership of a Government dwelling-house shall be the free market value of that dwelling-house as determined by the Authority reduced as shown in the second column of Table A annexed to this Scheme in proportion to the aggregate annual income of the applicant as shown in the first column of the said Table, subject to sub-clause (3) of this clause.

(2) Where the aggregate annual income of the applicant in the basic year exceeds six thousand Maltese liri (Lm6,000), the purchase price of the dwelling-house shall be the free market value thereof as determined by the Authority reduced, where applicable, and up to the first fourteen thousand Maltese liri (Lm14,000) of the said value, by one percent (1%) thereof for every whole year that the applicant has been recognised as the tenant of the dwelling-house up to a maximum of ten years.

(3) The reduced purchase price shown in the second column of Table A annexed to this Scheme shall also be further reduced by one percent (1%) thereof for every whole year that the applicant has been recognised as tenant of the dwelling-house up to a maximum of 10 years.

(4) Where the free market value of the dwelling-house as determined by the Authority exceeds fourteen thousand Maltese liri (Lm14,000) the excess shall be payable without any reduction as provided in the foregoing sub-clauses of this clause.

Payment of purchase price.

8. (1) Ten percent (10%) of the purchase price determined in accordance with the provisions of this Scheme shall be paid on account of the said price by the applicant on the promise of sale agreement with the Authority but the amount so paid shall not be recoverable by the applicant should he fail, for any reason, to conclude the deed of sale with the Authority.

(2) The balance of the purchase price shall be paid on the deed of sale entered into between the applicant and the Authority. Where an applicant does not make use of his right to borrow part of the purchase price as provided in sub-clause (3) of this clause ten percent (10%) shall be deducted from the purchase price determined in accordance with the provisions of this Scheme and such a deduction shall be made from the purchase price as reduced in accordance with the provisions of sub-clauses (2) and (3) of clause 7 of this Scheme.

(3) The applicant may borrow part of the purchase price from a financial institution approved by the Authority but the amount of the loan shall not exceed the limit laid down in the fourth column of Table B annexed to this Scheme, according to the aggregate annual income of the applicant as shown in the second column of the said Table, and shall be repayable in monthly instalments within a maximum period of twenty-five years from the date of the deed of sale or not later than the date on which be becomes sixty-five years of age, whichever is the earlier.

(4) Where an applicant has obtained a loan in accordance with sub-clause (3) of this clause, the Authority shall subsidise the

interests payable on the loan so that the interests payable by the applicant shall be at the rate shown in the third column of Table B annexed to this Scheme. No subsidy shall be payable where the aggregate annual income of the applicant for the basic year exceeds five thousand Maltese liri (Lm5,000).

(5) The rate of interest payable by the applicant as aforesaid shall be revised by the Authority every two years on the basis of the aggregate annual income for the basic year and the amount of the subsidy payable by the Authority shall also be revised accordingly. The first revision shall be due on the 1st of July 1992.

(6) The Authority shall ensure that where the aggregate annual income of the purchaser in any one year is less than one thousand seven hundred Maltese liri (Lm1,700) the payment of monthly instalments due in repayment of any loan as aforesaid shall be suspended for a period of up to three months which may be extended by further periods of three months provided that the purchaser shall continue to pay the rate of interest payable by him under this Scheme.

Transfer by the beneficiary.

9. (1) Any dwelling-house purchased under 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 ten years from the date of the deed of sale concluded with the Authority the beneficiary shall, before the transfer is effected, pay to the Authority and the financial institution approved by it under this Scheme, as the case may be, the whole or part of the value of any subsidy and of any amount deducted from the free market value of the dwelling-house under this Scheme as laid down in the second column of Table C annexed to this Scheme.

(3) Where the transfer of the dwelling-house purchased under this Scheme is to take place after ten years from the date of the publication of the deed of sale concluded with the Authority, the beneficiary shall not make any payment as provided in sub-clause (2) of this clause but shall give the Authority one month's notice of his intention to transfer the said dwelling-house and the Authority shall thereupon terminate any arrangement for the subsidy under this Scheme of any interests payable by the beneficiary.

Relief from death and donation duty.

10. Relief as provided in paragraph (b) of section 3 of the principal Act is hereby granted on the death of the beneficiary, and where the beneficiary is married at the time of the acquisition of the dwelling-house, also on the death of the beneficiary's spouse, in respect of any dwelling-house purchased by a beneficiary under this Scheme and the provisions of section 6 of that Act shall therefore apply thereto:

Provided that the aforesaid relief shall only apply in respect of the first seven thousand Maltese liri (Lm7,000) of the value of the dwelling-house.

Right to decontrol dwelling-house. Cap. 158.

11. The right is hereby granted to register under the Housing (Decontrol) Ordinance a dwelling-house purchased by a beneficiary under this Scheme and the provisions of section 7 of the principal Act shall therefore apply thereto.

Relief from duty on documents. Act XXXI of 1981.

12. The transfer of a dwelling-house to a beneficiary under this Scheme shall be exempt from the following duties under the Duty on Documents Act, 1981 hereinafter in this clause referred to as "the Act":—

(a) the duty under Title III of Part III of the Act in respect of any amount deducted in accordance with this Scheme from the free market value of the transferred dwelling-house.

(b) the duty under Title IV of Part III of the Act in respect of any appraisement or valuation of the dwelling-house made by or on behalf of the Authority for the purposes of this Scheme.

Administrative charge and abandoned applications.

13. (1) Any application under this Scheme shall be lodged personally or by registered mail by the applicant with the Authority and that application shall not be accepted unless accompanied by the sum of twenty Maltese liri (Lm20) as an administrative charge which, saving the provisions of sub-clause (5) of clause 3 and subject to sub-clause (2) of this clause, shall be refunded to the applicant on the deed of sale.

(2) Where any applicant under this Scheme fails to appear on the promise of sale agreement or on the deed of sale, as the case may be, when called upon to do so by the Authority, his application shall be deemed to have been abandoned and the administrative charge mentioned in sub-clause (1) of this clause shall not be recoverable by the applicant.

Penalty for false declarations.

14. (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 Authority of a penalty equivalent to the sum total of any subsidy and of any amount deducted from the free market value of the dwelling house under the provisions of 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.

Prohibition of sale in the public interest.

15. The Authority shall not agree to the sale under this Scheme of a dwelling-house which, on the advice of the Minister responsible for culture, should not be sold in the public interest on account of its antiquity.

Right of refusal.

16. Notwithstanding anything contained in the foregoing provisions of this Scheme, the Authority shall have the right to refuse any application.

TABLE A

(Clause 7)

First Column — Aggregate Annual Income of Applicant in Maltese Liri			Second Column — Purchase Price of Dwelling-House
0	—	1,500	35% of the free market value
1,501	—	2,000	40% of the free market value
2,001	—	2,500	45% of the free market value
2,501	—	3,000	50% of the free market value
3,001	—	3,500	55% of the free market value
3,501	—	4,000	60% of the free market value
4,001	—	4,500	65% of the free market value
4,501	—	5,000	70% of the free market value
5,001	—	5,500	80% of the free market value
5,501	—	6,000	90% of the free market value

TABLE B

(Clause 8)

First Column — Category	Second Column — Aggregate Annual Income in Maltese Liri	Third Column — Interests Payable by Applicant	Fourth Column — Limit of Loan in Maltese Liri
A	0 — 1,500	1.0%	4,000
B	1,501 — 2,000	2.0%	4,000
C	2,001 — 3,000	3.0%	4,000
D	3,001 — 4,000	4.5%	5,000
E	4,001 — 5,000	6.0%	5,000

TABLE C

(Clause 9)

First Column — Period in Years After Date of Deed of Sale with the Authority	Second Column — Repayment of Subsidies, Deductions, etc.
less than 2	100%
2 or more but less than 3	80%
3 or more but less than 4	70%
4 or more but less than 5	60%
5 or more but less than 6	50%
6 or more but less than 7	40%
7 or more but less than 8	30%
8 or more but less than 9	20%
9 or more but less than 10	10%.

Ippubblikat mid-Dipartiment ta' l-Informazzjoni — Kastilja — *Published by the Department of Information — Kastilja*
Mitbugh fl-Istamperija tal-Gvern — *Printed at the Government Printing Press*

Prezz 4c — *Price 4c*