



**HOUSING AUTHORITY SCHEME FOR THE
PURCHASE OF RENTED RESIDENTIAL UNITS PUBLISHED
ON 21st FEBRUARY 2014.**

(Sir Sid Darek)

1. Purpose of the Scheme

This Scheme is to encourage residents of apartments/terraced houses and maisonettes owned by the Housing Authority and the Government Property Department to become owner occupiers and continue using the property as their ordinary residence.

2. Definition

In this Scheme, unless the context otherwise requires:-

"the Act" with reference to Article 11 of this Scheme has the same meaning assigned to it in that clause;

"applicant" means a person who applies for the purchase of a Housing Authority or Government owned property under this Scheme; and when the application is made by two or more persons jointly, shall include all applicants;

"beneficiary" means anyone who benefits from this Scheme and has the same meaning assigned to it in section 2 of the Principal Act,

"the Authority" means the Housing Authority established by section 3 of the Housing Authority Act, 1976 (Cap 261);

"Chairman" means the Chairman of the Housing Authority and includes any person authorized to act on his behalf;

"Government" means the Government of Malta;

"ordinary residence" does not include a summer residence;

"prescribed" means prescribed by the Authority;

"Principal Act" means the Home Ownership (Encouragement) Act XXVIII of 1988;

"commercial price" means the commercial value of property as worked out by an architect appointed by the Housing Authority and will reflect the location and size of the building.

“subsidized price” means the value of a property as worked out by an architect appointed by the Housing Authority less deduction of subsidies

"recognized tenant" means a person holding a Housing Authority/Government apartment/terraced house/maisonette under a title of lease from the Authority/Government but excludes a tenant of property which has been transferred to the Government by virtue of the Ecclesiastical Entities (Properties) Act, 1992 (Act IV of 1992).

“preliminary agreement” means an agreement entered into between the Housing Authority as the vendor and the beneficiaries/applicants as the purchasers regarding the eventual sale/purchase of property. On the preliminary agreement, 10% deposit on account of the price is paid to the Housing Authority whereas the remaining 90% of the purchase price is to be paid to the Housing Authority on the final deed of sale, which deed is to be signed within six (6) months from date of preliminary agreement. Stamp duty and all expenses related to and ancillary to the deed are to be paid by the purchasers on the final deed of sale.

“final deed” means the notarial deed by which the Housing Authority transfers to the beneficiaries the ownership of the immovable property by virtue of this Scheme.

In this scheme the singular shall import the plural and the masculine shall import the feminine.

3. Applications for Purchase

A person shall qualify to apply with the Authority to purchase an apartment/terraced house/maisonette owned by Housing Authority/Government under this Scheme if on the date of application the following conditions are met, namely:

- (a) the applicant, or his wife/her husband in the case of married couples must be Maltese Citizens or Citizens of the E.U. Citizens of the E.U. must be acquiring their first residence in Malta and they must also satisfy all the legal requirements which may be required by Law, by any Authority and/or by the Office of the Prime Minister. In the case of married couples but not separated/divorced, it is sufficient that one of the spouses is a Maltese Citizen or a Citizen of the E.U.;
- (b) applicants residing in an old people’s home can apply to purchase their Housing Authority/Government owned residential unit under this Scheme only when and if their children are still residing in the rented property. In this case the calculation of subsidy is based on the assets of the recognised tenants.
- (c) In the case of married couples who are not legally separated/divorced, the application for purchase must be made by both spouses jointly.

4. Legally Separated/Divorced Spouses

An applicant who is legally separated/divorced from his spouse shall produce a copy of the final judgment of the competent Court pronouncing separation, or a copy of the public deed

effecting separation/divorce by mutual consent of the spouses with the authority of the competent Court.

5. Information

- (a) The applicants must submit all information regarding their financial means and revenue as well as all their property whether movable or immovable, as required by the Authority. For this purpose the applicants shall sign the necessary declarations authorising the Authority to carry out searches and all other necessary information obtained from third parties like Banks or financial institutions. The Authority shall also have the right to carry out inspections in the applicant's ordinary residence and in tenements belonging to him/her.
- (b) The Authority may require the applicant to sign and confirm under oath any declaration it may consider necessary for the processing of the application.

6. Administrative Charge and Abandoned Applications

- (a) Any application under this Scheme shall be submitted personally by any of the applicants to the Authority and that application shall not be accepted unless accompanied by the sum of forty Euros (€40) as an administrative charge and other charges needed for the procedure of application which charges are not refundable even if the application is not accepted and/or processed.
- (b) When an applicant under this Scheme fails to appear on the Preliminary Agreement or the final deed, as the case may be, when requested to do so by the Authority, his/her application shall be deemed to have been abandoned. The amount paid shall not be refunded to the applicant in case he/she fails to appear on the Preliminary Agreement or the final deed without any valid reason.
- (c) Any expenses incurred by the applicants in connection with their application shall not be recoverable by the applicants whether or not their application is successful.

7. Purchase Price

The purchase price for the absolute ownership of an apartment/terraced house/maisonette, owned by the Housing Authority/Government shall be the subsidized price as determined by the Authority after the deduction of 50% subsidy. This subsidy will only be granted if tenants are not in possession of capital assets exceeding €150,000 from the date of the publication of this scheme in the Government Gazette until the final deed is published.

In cases where applicants possess assets exceed €150,000, these applicants will be permitted to acquire the property without benefitting from any subsidy thus purchasing the property at commercial price.

Capital assets consists of:-

Banks Accounts, fixed deposits and funds:

Applicants must sign a form giving their consent to the banks /financial institutions to forward this information to the Authority;

Businesses and Profits:

These will be verified through the VAT Department and the Trading License Department;

Shares:

These will be verified through Malta Financial Services Authority.

Land and property:

These will be verified by the Authority through the Public Registry and the Inland Revenue. In the case of property being used for the business from which the applicant earns his main income, the first thirty five thousand Euros (€35,000) of such property will not be included to the value of the assets.

Applicants do not qualify under this scheme if they:-

- (i) have already benefited from any assistance under what used to be known as the "Home Ownership Scheme", or from any other assistance for the encouragement of home ownership by the Department of Social Housing or by the Lands Department or by the Authority or by any of them jointly;-
- (ii) acquired land from the Government which had been expropriated by virtue of the provisions of the Building Development Areas Act, 1983. (Cap 303) or tenements from the Housing Authority, the Department of Social Accommodation, the Joint Office, other parastatal bodies and local Authorities.

In his/her application form, applicant will declare that in case he/she had submitted a request for structural repairs with the Housing Authority between the first date of the publication of the scheme in Government Gazette until the date of the signing of the final deed, he/she will agree to pay for such works. The amount of the works will be added to the purchase price.

8. Payment of purchase Price

- (a) The price shall be paid as follows:

Ten percent (10%) of the subsidised price shall be paid on the preliminary agreement as deposit on account of the price. This amount shall not be refunded in the eventuality that the beneficiary does not appear on the deed of sale without a valid reason according to Law. It is to be pointed out that the property is being sold *tale quale* with the exclusion of the guarantee against latent defects.

The balance on the said price shall be paid on deed of sale. The final deed shall be published by not later than six (6) months from the date of the preliminary agreement.

- (b) In the eventuality that after the Preliminary Agreement it results to the Authority that the beneficiary does not conform to all the conditions of this Scheme, and therefore shall not be entitled to the purchase of the property, the Housing Authority will have the right to consider the preliminary agreement as being null *ipso jure*. In this case the Authority will have the right to refund to the beneficiary 90% of the sum paid by him to the Authority on the said preliminary agreement. 10% of the sum paid on the Preliminary Agreement shall be retained by the Housing Authority as administrative charges and other expenses including recurrent damages due to the negligence of the applicant. The Preliminary Agreement will be automatically rescinded by the Authority's unilateral decision and by refunding (if necessary by a schedule of deposits through Court) the amount indicated above.

9. Conditions of Sale

The property purchased under this scheme shall not be transferred under any title, except for transmission by *causa mortis* by the beneficiary unless the following dispositions of this clause are observed.

- (i) The property purchased under this Scheme shall be used and occupied by the purchasers exclusively as their ordinary residence for a period of at least ten (10) years from the date of the signing of the final deed. The property shall not be used for any other reason except ordinary residence even after this date.
- (ii) The property purchased under this Scheme, shall not be transferred under any title *inter vivos* before the lapse of ten (10) years from date of signing of the final deed.
- (iii) Where the transfer is to take place:-
- (a) **before** the lapse of ten years from the date of final deed the beneficiary binds himself to refund to the Authority all subsidy enjoyed, that is the sum equivalent to the difference between the commercial price and the subsidized price together with any subsidy enjoyed if applicable. Such transfer can only be effected only if the Housing Authority's consent is given prior to the transfer.
- (b) **before and after** the lapse of ten (10) years from the date of final deed, the beneficiary has to inform the Authority with his intention at least two (2) months before the date of transfer to third parties of the property, he shall also impose the same terms and conditions to the purchaser and shall also oblige eventual purchasers with the same terms and conditions. The Housing Authority also reserves the right to impose further conditions and this at its absolute discretion. In addition, in each and every transfer it is to be indicated and reconfirmed the obligation that the property has to be used only for residential purposes. Any other activity is to be prohibited.

- (iv) All this shall apply *mutatis mutandis* where the beneficiary does not continue to occupy the apartment as his/her ordinary residence for a period of ten (10) years from the date of the final deed. In this case the beneficiary will be obliged to pay 8% interest per annum on the subsidy granted until he/she abides by the said condition and until the lapse of the ten (10) year period from date of the final deed.
- (v) The Authority is entitled but not bound to register in its favour a Special Privilege and/or Special Hypothec and/or General Hypothec according to law, without prejudice to the rights at law and this to guarantee the refund of the subsidies as well as the observance of all the conditions by the beneficiary.
- (vi) The property purchased under this scheme or part of it cannot be used commercially without the consent of the Housing Authority before the lapse of ten (10) years from the date of the final deed. After the lapse of this period, permission can be granted on condition that applicants pay up to the maximum of 25% of the subsidy enjoyed under this scheme. This clause is not applicable in cases where applicants are not given any subsidy on the price.
- (vii) The beneficiary shall bind himself not to keep any dangerous substances and/or explosives in the property or in the common parts;
- (viii) In case of apartments, the beneficiary is obliged to become a member of the Residents' Association and where this does not exist, to form together with the other buyers of the same block of apartments such Association in terms of the law on Condominiums (Act 29 of 1997).

This Association has to be registered within one (1) month from when it is appointed by the Registrar of Land in terms of Cap 398 of the Laws of Malta. Under no circumstances the Housing Authority shall be expected to perform such any obligation which is the responsibility of the Association according to Law;

- (ix) The beneficiaries bind themselves not to keep any animal/s of any kind, in any part of the building block, including the roof, common parts of the block, not even in the property itself which is being sold to them by the Authority under this Scheme. If this obligation is breached the Association will be expected to act against the persons breaching this condition. The Authority will not be expected to interfere in such cases. Any resident in the Block will have the right to act against other residents who breach this condition.
- (x) In the case of a common roof, these can be used only for clothes hanging, and parties and barbecues or any other activities are not permitted. In the case of penthouses, access to the overlying roof is limited to the installation and maintenance of the water tanks, TV aerials and solar water heaters;
- (xi) The roof and the common parts, in case of apartments, remain the absolute property of the Authority which reserves the right to build other levels and give the right of use of the roof and common parts to third parties. In such a case the Authority shall provide access for the installation of a water tank, TV aerial and solar water heater on the new development. The beneficiary may in no way object to such development;

- (xii) The common parts within the block of apartments include the main door, the entrance, the corridor which leads to the apartments, the staircase up to the roof, the roof shaft, all the common roofs (these can include the roofs on the penthouses, the shafts and the doors to the shafts, the common parts surrounding the block, if applicable, the lift shaft and the lift itself) are not included in the sale. Notwithstanding the above, the beneficiary will be obliged to fork out his share for the upkeep of the common parts according to Law. Included in the common parts are those parts which are not included in the paragraph but which according to the Law are considered as part of the common area. The ordinary and extra ordinary maintenance and repairs of the common parts will be the responsibility of the owners of the apartments forming part of the block. In case of tenants residing in the block, the obligations will be the responsibility of the owner or the tenants' according to the agreement between same owner and tenant.
- (xiii) The property is to be transferred as *tale quale* and with the exclusion of the guarantee against latent defects.

10. Penalty for False Declaration

- (a) If at any time it results that an applicant has made a false declaration or given incorrect information or incorrect documents for the purposes of any application made by him/her under the provisions of this Scheme, without prejudice to any punishment for which he/she may have become liable under any other law, the said applicant and where his/her application was made jointly with another person, both applicants jointly and severally shall be liable to the payment to the Authority of a penalty equivalent to the amount deducted from the free market value of the dwelling-house under the provisions of the Scheme together with an additional sum of 25% of the amount stated above. The charge cannot be decreased by any Court.
- (b) Any person who has made a false declaration or incorrect information or documents as provided in paragraph (a) of this article shall, together with any other person with whom he/she would have applied jointly, also be disqualified for a period of ten (10) years from benefiting from any scheme made with the approval of the Minister responsible for Housing, and shall forfeit the right to any subsidy under this Scheme. If applicable a report to the Police can also be filed.

11. Relief from Duty on Documents and Transfers (Act XVII of 1993)

The transfer of a dwelling-house to applicants under this Scheme shall be exempt from the duty payable under Title II of Part III of the Duty on Documents and Transfers Act (Act XVII of 1993) in respect of any amount deducted in accordance with this Scheme from the market value of the transferred property.

12. Prohibition of Sale in the Public Interest

The Authority also reserves the right to refuse applications for the purchase of amongst others but not only, property with historical value, farmhouses, villas and property with high

potential of development, and this at the Authority's absolute discretion. The decision of the Housing Authority will be final.

The sale of the property under this scheme will not take place in case of alterations to the units and illegal structures. In such cases the Authority may, at its absolute discretion, opt not to proceed with the sale before such structures are sanctioned.

13. Duration of Scheme

This Scheme shall remain in force for a period of one year from the date of its publication in the Government Gazette, and shall be automatically renewed for further periods of one year each unless a Notice to the contrary is published in the Government Gazette indicating that the scheme has been withdrawn.

14. Interpretation

In case the Maltese text differs from the English text, the Maltese text will prevail.

These conditions should form an integral part of the deed and in case where the conditions of the deed are different from the conditions indicated in the scheme, the interpretation or condition which is most favourable to the Authority is to be applied.

The Authority shall have the right to stop or make any amendments to this Scheme even retroactively – in this case the Authority will not be bound to pay for any damages incurred.