

**Subsidy on Adaptation Works related to dangerous structures
in Private Dwellings Held on Lease or Emphyteusis prior 1st June 1995 –
Scheme 2013**

1. Purpose of Scheme

The aim of the scheme is to provide subsidies to assist certain tenants/emphyteuta in carrying out works related to dangerous structures and to render these residential premises leased to them prior 1st June 1995 habitable and of an acceptable standard.

2. Definition

In this Scheme, unless the context otherwise requires:-

“aggregate annual income” has the same meaning assigned to it in article 10 of this Scheme;

"applicant" means a person who applies for the cash assistance to eliminate dangerous structures in private dwellings under this Scheme, and when the application is made by two or more persons jointly, shall include all applicants;

"appointed day" means the day on which this Scheme comes in force ;

"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 authorised to act on his behalf;

"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;

"owner" includes sub-owner;

"dwelling-house" has the same meaning assigned to it in section 2 of the Principal Act and excludes houses owned or leased by the Government, the Housing Authority, any parastatal body and any public corporation or local authority;

"emphyteuta" includes a sub-emphyteuta;

"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 XXIII of 1988;

"recognised tenant" means a person occupying a private dwelling house under a title of lease from the lessor and includes a person who is occupying the property under a title of emphyteusis in terms of Article 4 and recognised as such by the lessor or direct owner, as the case may be;

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

3. Applications for Assistance under the Scheme

- (i) Any person qualified to apply for Assistance under this Scheme may make an application on the prescribed form to the Authority requesting assistance from the Authority to carry out adaptations related to dangerous structures in the said dwelling house occupied by him as his ordinary residence.
- (ii) The assistance available under this Scheme shall consist in cash assistance to carry out works related to dangerous structures.

4. Qualifications to Apply for Assistance under this Scheme

A person shall qualify to apply for Assistance under this Scheme if on the date of application:

- (i) he/she is the recognised tenant / temporary emphyteuta or sub-emphyteuta of the dwelling house in respect of which he is applying for assistance available under this Scheme. The lease or emphyteusis should have been in force before 1st June 1995, and
- (ii) has emphyteusis or sub-emphyteusis which on its expiry date can be converted into lease according to Chapter 158 of the Laws of Malta
- (iii)
 - (a) one of the couple is a Maltese citizen or a European citizen; and
 - (b) he/she and his / her spouse are ordinary residents of Malta and have been so resident continuously for not less than twelve consecutive months immediately preceding the date of application; and
 - (c) in the case of married couples who are not legally or *bona fide de facto* separated or divorced the application for Assistance under this Scheme must be made by both spouses jointly;
 - (d) In the cases where, in the absolute discretion of the Housing Authority, the spouses are considered to be '*bona fide de facto*' separated the application may be filed by one of the spouses who is actually residing in the premises concerned. In such a case, the spouse residing permanently in the premises will qualify even in the cases where the rent receipts are issued in the name of the other spouse; and in this case the person must be a Maltese citizen and an ordinary resident of Malta; and
- (iv) he/she has already entered into a contract of the type referred to in the following paragraph before the appointed day with the lessor or direct owner which is either in its original period or has been renewed or converted into a lease according to law; and

- (v) the contract is of the following types ;
 - (a) a contract of lease (a contract of lease includes receipts of rents paid) entered into before the 1st of June 1995; or
 - (b) a grant of temporary emphyteusis not exceeding 21 years entered into before the 1st of June 1995; and

provided in all cases the Authority is satisfied in its absolute discretion that there is no collusion between the parties - this will be studied and agreed upon at the absolute descretion of the Authority; and
- (vi) in the case of an emphyteutical grant, the grant is still current, provided that the emphyteuta has the right to continue to occupy the dwelling house under title of lease on the expiry of the grant; and
- (vii) the dwelling house has been declared by the Housng Authority or by a competent Court or are considered by the Authority as a dangerous structure and which needs repairs; and
- (viii) the use of the premises for residential purposes is lawful and in accordance with the contractual obligations of the lease or of the deed of temporary emphyteusis whichever is the case; and
- (ix) the lease does not refer to furnished premises.

5. Disqualification

A person shall not qualify to make an application under this Scheme if:

- (i) applicants have already benefited from any assistance under what used to be known as the "Home Ownership Scheme", from any other schemes issued by the Housing Authority 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; However in the case of one of the applicants who had broken their engagement/marriage on which basis he had so benefited and one party of the couple had transferred to the other party the rights on property on which the subsidy was enjoyed (and were applicable the subsidy enjoyed was refunded in full) the party who had transferred his/her rights can apply under this application. In both cases Clause 5 sub-clause (iii) does not apply as so far as it affects the property on which subsidy was enjoyed and/or
- (ii) benefited from assistance under any scheme issued by the Housing Authority of the Government for the carrying out of adaptation and improvement works; but if applicant has already benefited under these schemes he can re-apply under this notice provided that:-
 - (a) the adaptation works related to dangerous structures on which aid is being requested under this scheme are not the same adaptation works for which aid had been granted to the applicant for the carrying out of adaptation and improvement works; and
 - (b) the total amount of the grants enjoyed under the adaptation schemes which the applicant had benefited under it for carrying out of adaptation and

improvement works together with the grant to be enjoyed under this Scheme do not exceed together the sum of €25,000 as laid down in Clause 11; and/or

(iii) a year before the date of application till the approval of the grant of subsidy under this Scheme:-

- (a) had in his possession immovable property either in whole or in part ownership, either on their own or in partnership, on absolute ownership or on perpetual emphyteusis and on which a building permit for habitation purposes has been issued or can be issued by the MEPA;
- (b) had in his possession in full ownership or in part ownership, either on their own or together with others, property suitable for habitation purposes or on perpetual emphyteusis or on temporary emphyteusis of more than 40 years duration from date of original constitution of the emphyteutical grant of the said temporary emphyteusis.
- (c) had in his possession holdings or shares in any commercial body which a year prior to application had immovable property or as mentioned in the two preceding sub-paragraphs.

However an applicant will not be disqualified under this article for the simple reason that he possesses as indicated above a property under absolute ownership or lease if in the absolute discretion of the Housing Authority the premises whether occupied or not are not adequate for accommodation for the applicant/s and his family or cannot be utilized; and/or

(iv) the applicant has acquired land from the Government which had been expropriated by virtue of the provisions of the Building Development Areas Act 1983. (Cap. 303) or premises from the Housing Authority, the Department of Social Accommodation, Joint Office or other parastatal bodies; and/or

This clause shall remain applicable at the absolute discretion of the Housing Authority to have the right to accept applications that fall under this clause as long as it considers applications to be genuine.

- (v) (a) the aggregate annual income of the applicant/s exceeds the sum stipulated in clause 11; and/or
 - (b) applicant and spouse possess capital exceeding €60,000 during the twelve months (12) preceding the date of application till the approval of the grant of subsidy under this Scheme. These assets do not include the bedroom furniture and cars. These assets might include shares in any commercial body, immovables or shares in immovables in which case their valuation will be at the absolute discretion of the Housing Authority; Assets shall also include assets held by children of the married couple who are underage; and/or
- (vi) the dwelling house on which subsidy is being requested is in a slum area which eventually has to be demolished; and/or

- (vii) the applicant is a direct descendant or ascendant or otherwise related to the owner up to the two degrees or a co-owner with the lessor.

6. Legally or *De Facto* Separated/Divorced Applicant

- (i) An applicant who is legally separated or divorced from his spouse shall produce a copy of the final judgement of the competent court that pronounces the separation/divorce or a copy of the contract of separation/divorce.
- (ii) An applicant who is *bona fide de facto* separated person shall produce to the satisfaction of the Housing Authority proof that he/she is actually so separated and in this sense he/she has to produce all documents, sworn declarations, legal declarations and any other proof which he deems necessary to substantiate this fact. It shall be discretionary on the Housing Authority to decide whether the documents submitted suffice to prove the *de facto* separation.

7. Method of Application

- (i) A person qualified to make an application for Assistance under this Scheme shall submit an application in the prescribed form and shall deliver same personally to the Authority during the prescribed times.
- (ii) The prescribed forms can be collected from the offices of the Housing Authority 22 Pietro Floriani Street Floriana, Malta and from the Housing Authority branch 25 Enrico Mizzi Street, Victoria, Gozo or from the Housing Authority website.

8. Information

The Authority may require the applicants to sign and confirm under oath any declaration in any form even under oath 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.

9. Administrative Charge and Abandoned Applications

- (i) Each application for assistance under this Scheme shall be lodged personally by any of the applicants to the Authority and that application shall not be accepted unless accompanied by the sum of twenty Euros (€20) as an administrative charge. Additionally the applicant shall pay a charge to cover expenses on researches to be carried out by the Housing Authority on the applicant on his/her behalf. This charge is not applicable to applicants in receipt of Social Assistance and/or Non Contributory Pension.
- (ii) Where any applicant under this Scheme fails to appear on the agreement regulating the enjoyment of the subsidy when asked to do so by the Authority, his application shall be deemed to have been abandoned and 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.

10. Aggregate Annual Income

For all purposes of the application, calculation of the aggregate annual income of applicant shall be as follows:-

- (i) the gross income from any occupation, pay and/or salary, overtime, pension and/or other social benefits (excluding children's allowance) earned by the applicants during the basic preceding calendar year.
- (ii) the applicant's income and those of his wife during the basic calendar year from capital assets such as; bank deposits, stocks, shares, loans, rents, investments in commercial enterprises, other investments in property, including capital gains;
- (iii) for the purpose of this application, the aggregate annual income of the applicants shall be the income of the applicant/s determined in accordance with the foregoing paragraphs of this article. Yet the Authority shall not be bound to accept any declaration, documents or information given to it by the applicants or beneficiaries under this Scheme, should it reasonably consider such declaration, documents or information incorrect or untrue;
- (iv) from the gross annual income of a separated person any amount paid to the other part as alimony will be deducted. This amount will be deducted after a document is provided, signed by the lawyers of both parties, with a declaration that the official amount as declared in the Deed of Separation is in fact being paid;
- (v) From the Annual Income will be deducted the National Insurance Contributions, any disability assistance and any social benefits which the Housing Authority may at its absolute discretion exclude from time to time.

The Chairman of the Authority may refuse to accept any declaration of income of the applicants if, in the Authority's absolute discretion decides that this is incorrect or untrue.

In this case the Authority is to refer the matter to the Advisory Board of the Housing Authority appointed by the Housing Authority Board, in order to establish the income of the applicants/beneficiaries. The advice of the Board will be final and shall bind both the Authority and the applicants/beneficiaries. The applicants/beneficiaries effected by this provision have the right to make written objections to the Advisory Board.

11. Adaptation Cash grant

(i) Percentage of Adaptation Cash Assistance

The adaptation cash assistance subsidy shall be based on the aggregate annual income according to the following schedules:

Aggregate Annual Income for a Basic Calendar Year €	Percentage of Subsidy
0 – €12,697	100%
€12,697.01 – €16,697	80%
€16,697.01 – €20,697	60%
€20,697.01 – €24,697	40%
€24,697.01 – €26,697	20%
€26,697.01 and more	Nil

The annual income for the basic year above indicated in tables above shall be reviewed every two years by the amount of increase on a yearly basis other National Minimum Wage.

Member of the Family is to include only:-

- (1) the applicant, and
- (2) children living in the household including fostered children, grand children (*neputijiet*) or children related to the applicant up to the second degree even in the collateral line. The children must be:-
 - (i) not married; and
 - (ii) dependent on the applicant; and
 - (iii) not gainfully employed; and
 - (iv) under 18 years of age.

The age limit must not apply to persons registered as disabled.

(ii) Adaptation Cash Assistance

- (a) Subject to what is stated below, an applicant, who qualifies for Assistance under this Scheme may apply for assistance from the Authority by way of an Adaptation Cash Assistance up to a maximum of €25,000 for the purpose of rendering the private dwelling house of an acceptable standard should it be, at the time of the application, of a sub-standard level or dangerous.
- (b) the grant is given for works in order to eliminate dangerous structures.
- (iii) an Adaptation Cash Assistance shall not be awarded by the Authority :
 - (a) for works already carried out prior to the approval of the application made in respect of such works, and unless such works are certified as necessary by an Architect and Civil Engineer appointed by the Authority for the purpose; and/or
 - (b) if all permits required by law are not obtained.
- (iv) The adaptation cash grant approved under this Scheme shall not exceed the total reasonable costs of the works to be carried out as approved by the Authority, and in each case shall not exceed the amount of €25,000.

The payment of the grant is effected after the completion of all works by applicants and once they submit the fiscal receipts of the works carried out. The payment is given to applicants in the presence of the contractors who carried out the works.

- (v) The adaptation works involved are to be considered as viable at the absolute discretion of the Housing Authority. The Housing Authority is to take into consideration the surrounding area and the comprehensive aspect of the project. The works approved by the Authority shall be completed within three months from the date of approval authorising the adaptation and improvement works and any assistance paid under the provisions of this Article shall be payable by the Authority only after that the Authority has ascertained that the works have been carried out in full and as approved by the Authority, against receipts and after compliance with all conditions prevailing by or under this Scheme. The approval of the grant under this scheme should not be considered as the Authority's responsibility for the necessary works to be carried out.

(vi) Conditions for Assistance

- (a) The dwelling house which qualifies for Assistance being granted under this Scheme shall be used and occupied by the applicants exclusively as their ordinary residence for a period of at least ten years from the date of the final payment for adaptation and improvement works.
- (b) The Authority is entitled, but not bound, to register a General Hypothec according to law against the tenants of emphyteuta and this according to Law, without prejudice to other rights at law and this to guarantee the refund of the subsidy and/or cash assistance as well as the observance of all the conditions by the beneficiary. In case of emphyteuta or sub-emphyteuta the Housing Authority can request to register a special hypothec on the remaining emphyteusis or sub-emphyteusis.

12. Penalty for False Declaration

If at any time it results that applicants have made a false declaration or given incorrect information/documents for the purposes of any application made under this Scheme, without prejudice to any penalty for which they may have become liable under any other law, applicants shall be liable to the payment to the Authority of a fine equivalent to the sum total of any subsidy from which applicants have benefited under the provisions of the Scheme. They will also be disqualified for a period of five (5) 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.

This incorrect or false declaration or this submission of incorrect or false documents may also lead to the commencement of criminal procedures

13. Vacation of Premises on Which Subsidy Has Been Granted and Repayment of Subsidies

- (i) A dwelling house on which assistance has been granted under this Scheme shall be used and occupied by the purchasers/tenants exclusively as their ordinary residence for a period of at least ten years from the date of the final payment of the Adaptation Assistance Grant under this Scheme.

Notwithstanding the above, the Authority may in its absolute discretion and then only in exceptional circumstances in order to avoid or alleviate hardship to any beneficiary of a dwelling house on which assistance has been given under this Scheme gives its consent to the vacation of a dwelling house prior to the lapse of such period subject to any condition it may deem appropriate, including without prejudice to the generality of this scheme, a condition to refund any assistance granted and enjoyed by the beneficiary.

- (ii) The provisions of sub-clause (i) of this clause shall also apply *mutatis mutandis* where the beneficiary does not continue to occupy the dwelling-house as his ordinary residence. In this case any subsidy granted shall be paid back to the Authority.

14. Obligations and Responsibilities

It being made clear that it is the applicant's sole obligation to ascertain himself that according to his contract and according to Law, he has the legal right to effect the works for which he is requesting a grant. In addition, the works carried out under the scheme remain the responsibility of the applicant and this applies in regard to all the responsibilities and obligations vis-à-vis the contractors and workers, vis-à-vis third parties, and vis-à-vis the owner of the property which is being repaired.

15. Subrogation of Rights

Where an applicant has a right of action against the landlord or against a third party asking him to repair the damages which are the subject of the application, or where he has a right of action against a third party who caused the damages which necessitate the works applied for, the Housing Authority may oblige the applicant to subrogate the Housing Authority in his rights against the landlord and /or against the said third parties. Any amount recouped by the Housing Authority from any action taken by it against the said parties will remain for the benefit of the Housing Authority.

16. Duration of Scheme

This Scheme shall remain in force for a period of 12 months 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.

17. Right of refusal

Notwithstanding anything contained in the foregoing provisions of this Scheme, the Authority shall have the right, at its absolute discretion, to refuse any application and its decision will be final and not subject to scrutiny.

The Authority shall have a right to stop and, or withdraw this scheme and it shall have the right to change its conditions even retrospectively and thus this scheme does not bestow acquired rights. Such change shall not make the Authority subject to any action for damages. An application that has been accepted may be withdrawn and, or refused if the conditions of the scheme are changed after the acceptance of the application.

18. Request for additional works

Beneficiaries under this scheme and any other previous Housing Authority adaptation schemes may benefit for additional improvements after 5 years have elapsed from the date when all items approved under the original application have been certified complete by the Housing Authority Architect.

19. Interpretation

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

20. Amendment of Scheme

The Authority shall have the right to make any amendments to this Scheme by publication of the said amendments in the Government Gazette. Such amendments might be made applicable retroactively.

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