



## SHARED EQUITY PURCHASE ASSISTANCE (FIRST HOME CHOICE) SCHEME 2014

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Consultation Draft

Statutory Document No. XX/20XX



*Housing (Miscellaneous Provisions) Act 2011*

## SHARED EQUITY PURCHASE ASSISTANCE (FIRST HOME CHOICE) SCHEME 2014

*Approved by Tynwald:*

*Coming into Operation:*

*July 2014*

The Department of Social Care makes the following Scheme under sections 4(1) and 7 of the Housing (Miscellaneous Provisions) Act 2011<sup>1</sup>.

### DIVISION 1 - INTRODUCTION

#### 1 Title

This Scheme is the Shared Equity Purchase Assistance (First Home Choice) Scheme 2014.

#### 2 Commencement

If approved by Tynwald, this Scheme comes into operation on \*\*\*\*\*.

#### 3 Interpretation

(1) In this Scheme —

“**approved mortgage provider**” means a bank or building society carrying on business in the Island which is approved for the purposes of this Scheme by the Department after consultation with Treasury;

“**assistance**” means financial assistance under this Scheme;

“**assisted person**” means a person to whom assistance is given (or if assistance is given to 2 or more persons, both or all those persons each of whom is jointly and severally liable for the repayment of the assistance) and includes, where the context so admits, an applicant for assistance;

“**the Department**” means the Department of Social Care;

<sup>1</sup> AT 19 of 2011.

“**dwelling**” includes a dwelling to be constructed or in the course of construction, and any land forming the curtilage of a dwelling or otherwise occupied with it, and “**the dwelling**” means the dwelling in relation to which assistance is given;

“**equity share**” has the meaning given by paragraph 5(2) (assistance under this Scheme);

“**minimum standards**” in relation to a dwelling means a dwelling which is either –

- (a) not less than 55 square metres in area and must include a separate bedroom and bathroom, or
- (b) less than 55 square metres in area with such other internal layout as the Department in its discretion deems acceptable;

“**open market dwelling**” means a dwelling purchased by a first time buyer which complies with both the purchase price and the minimum standards determined by the Department;

“**purchase price**” means the aggregate of all sums required to be paid by an applicant or assisted person to acquire the dwelling in question; and

“**written offer**” means a written offer by the Department, accepted in writing by an applicant or applicants, of an open market property at a specified price.

- (2) The provisions of this Scheme apply to all written offers made on or after \*\*\*\*\*.

#### 4 Purpose of Scheme

- (1) The purpose of this Scheme is to enable assistance to be given by the Department by way of equity share of the purchase price of an open market dwelling.
- (2) The provision of assistance under this Scheme does not prevent the granting of assistance under any other Scheme in place from time to time to assist in the repair and modernisation of a residential property.

#### 5 Assistance under this Scheme

- (1) The Department may assist a person by providing up to 30% of the purchase price of a dwelling, subject to the qualifications and conditions for assistance set out in this Scheme.
- (2) For the purpose of this Scheme the Department’s “**equity share**” in the dwelling is the percentage of the purchase price provided under subparagraph (1).
- (3) Assistance which is provided by the Department under this Scheme is subject to adequate funding being available to the Department within its annual budget.

- (4) The Department's equity share in a dwelling subsists for the entire original agreed term of the assisted persons ownership unless –
  - (a) subject to the conditions in paragraph 18 (purchasing equity share), the assisted person buys out the total equity share the Department holds in the dwelling; or
  - (b) subject to the conditions in paragraphs 20 (disposal of the dwelling to a remaining assisted person) or 21 (disposal of the dwelling), the property is disposed of.

## 6 Applications

- (1) An application for assistance must be made in the first instance to the Department on a form supplied by the Department, and must be accompanied by the fee specified in paragraph 7(1) (fees).
- (2) The Department must reject an application for assistance if –
  - (a) any information required to be given on the application form, or any further information required by the Department, is not given within any timescales determined by the Department, or any information given is false in a material particular;
  - (b) the income of the applicant does not fall within limits set out in this Scheme;
  - (c) the other financial circumstances of the applicant do not conform to criteria set out in this Scheme;
  - (d) the dwelling does not conform to criteria determined by the Department;
  - (e) any approval of plans for the purpose of building regulations and any planning approvals and other consents required for the construction, alteration or adaptation of the dwelling have not been granted;
  - (f) the applicant is unable to demonstrate that he or she or they can obtain a loan from an approved mortgage provider to fund the balance of the purchase price of the dwelling;
  - (g) any further information or document necessary to the Department's consideration of the application is not supplied within any timescales determined by the Department.

## 7 Fees

- (1) An application fee of £100 must be paid by the applicant to the Department on the making of an application for assistance under this Scheme.
- (2) A purchase fee of £50 must be paid by the assisted person to the Department on the purchase of all, or part of the Department's equity share in the dwelling under paragraph 18 (purchasing equity share).

## DIVISION 2 – QUALIFICATIONS FOR ASSISTANCE

### 8 Eligibility

- (1) Subject to sub-paragraphs (2) to (6), a person is eligible to apply for assistance under this Scheme if that person –
  - (a) has not previously owned a dwelling in their sole name or jointly with another person or persons (whether in the Island or elsewhere); and
  - (b) meets either of the following residential requirements, namely that the person –
    - (i) has lived in the Island for an uninterrupted period of 5 years immediately preceding the date of the application; or
    - (ii) currently resides on the Island, having done so for the previous 6 months and having previously lived in the Island for an aggregate period or periods totalling 15 years before the date of the application.
- (2) The Department may, in its discretion, accept an application from any residentially qualified person under sub-paragraph (1)(b) for assistance in such particular circumstances as it considers appropriate.
- (3) Subject to paragraph 15 (previously assisted persons), the Department may in its discretion, on one occasion only, allow a person who owns a dwelling purchased as an assisted person under any previous House Purchase Assistance Scheme, to dispose of his or her, or their dwelling to the Department, or another assisted person in order to acquire a different dwelling within the terms of this Scheme.
- (4) The Department may refuse an application by an applicant, or joint applicants except in relation to properties as set out in column 3 of the table in the Schedule to this Scheme (eligibility criteria).
- (5) The Department may refuse an application by a person who is not –
  - (a) in full-time permanent employment; or
  - (b) engaged full-time in an all-year-round business as a self-employed person;in the Island.
- (6) The Department must refuse an application by a person who, in the opinion of the Department, has, or is likely to have, sufficient means or sources of finance to enable that person to buy a dwelling suitable for that persons own occupation without assistance under this Scheme.

## 9 Income

- (1) The maximum annual income of an applicant or applicants is set out in column 2 of the table in the Schedule to this Scheme (eligibility criteria).
- (2) For the purpose of this Scheme the income of an applicant for assistance or an assisted person is calculated as follows –
  - (a) if the applicant or assisted person is one individual, the aggregate of his or her permanent gross income;
  - (b) if the applicant or assisted person is married, is a civil partner, or living with another as if they were married or were civil partners, the permanent gross income of the other person; or
  - (c) if the application is or was made by two individuals, the aggregate of their permanent gross incomes.
- (3) In this paragraph “income” means –
  - (a) in the case of an employed person –
    - (i) his or her gross basic income, and
    - (ii) any regular overtime up to one-sixth of basic income, as certified by his or her employer, and
    - (iii) his or her income from other sources to the extent allowed by the Department; or
  - (b) in the case of a self-employed person –
    - (i) the average of his or her last 3 years’ gross income as shown by audited accounts, or
    - (ii) such other estimate of his or her income as the Department may in a particular case approve; and
    - (iii) his or her income from other sources to the extent allowed by the Department.

## 10 Deposit

An applicant or applicants for assistance must be able to demonstrate that they can provide a deposit of at least 5% of the purchase price of the dwelling.

## 11 Mortgage

An applicant or applicants for assistance must be able to demonstrate that they have obtained an offer of the highest level of mortgage available to them.

## 12 Maximum purchase price

The maximum purchase price for a dwelling is set out in column 4 of the table in the Schedule to this Scheme (eligibility criteria).

## DIVISION 3 – CONDITIONS OF ASSISTANCE

### 13 Restrictions on assistance

- (1) The assisted person is responsible for all professional, mortgage, registration and other fees and expenses incurred by him or her or them in connection with an application for assistance and the giving of any security for it.
- (2) The dwelling must be used for the personal occupation of the assisted person and his or her or their child or children, and must not, without the prior written consent of the Department, be —
  - (a) used for the purpose of any trade or business;
  - (b) let or sub-let; or
  - (c) occupied by persons other than the assisted person, including if applicable, any child or children of the assisted person.
- (3) For the avoidance of doubt, the assisted person or persons jointly and severally fails to comply with the conditions of assistance under this Scheme if they cease to reside at the dwelling but permit his or her or their child or children to continue to reside at the dwelling.
- (4) The dwelling must not be altered or adapted in any way without the prior written consent of the Department.
- (5) The Department must be satisfied as to —
  - (a) the assisted person's title to the dwelling; and
  - (b) in the case of a flat, the arrangements for the maintenance of the building of which it forms part.
- (6) While the assisted person remains liable to repay any assistance under this Scheme the assisted person must —
  - (a) keep the dwelling in good repair;
  - (b) pay rates and all other outgoings in respect of the dwelling;
  - (c) comply with all requirements of the legislation from time to time in force relating to town and country planning and building control;
  - (d) insure the dwelling against fire and all other risks required by the Department and produce the last home insurance premium receipt to the Department on demand; and
  - (e) allow all persons authorised by the Department to inspect the dwelling at any reasonable time.
- (7) No assistance may be given for the construction of a dwelling where works which are normally carried out by craftsmen of a class to which



the Scheme for the Certification of Craftsmen 1990<sup>2</sup> applies unless those works are carried out by persons registered in accordance with that Scheme.

- (8) The instrument by which the repayment of assistance is to be secured under this Scheme must be —
- (a) in such form; and
  - (b) include such provisions for ensuring compliance with the conditions of this Scheme, and any other conditions which the Department may consider appropriate;
- as the Department may require.

#### **14 Failure to comply with conditions of assistance**

- (1) On any failure by the assisted person to comply with the conditions of any assistance provided to that person —
- (a) the Department may by notice require that the Department's equity share to be repaid immediately at the prevailing market rate;
  - (b) the amount of any such equity share (with accrued interest, as set out in paragraph 16 (interest)) becomes due and repayable and the Department may take action to —
    - (i) repossess the dwelling,
    - (ii) sell the dwelling to realise its security.
- (2) The assisted person must co-operate in all respects with the Department if action under this paragraph is necessary.

#### **15 Previously assisted persons**

- (1) This paragraph applies if a person has previously been assisted by the Department to purchase a dwelling under any previous House Purchase Assistance Scheme provided by the Department.
- (2) If this paragraph applies and there is a sum of assistance outstanding in respect of the previous assistance then sub-paragraph (3) applies.
- (3) Any assistance outstanding must be reflected in the Department's equity share in the assisted person's purchase of a new dwelling under this Scheme.

#### **16 Interest**

- (1) Interest on the Department's equity share in the dwelling is due and payable by the assisted person from the year commencing on the second anniversary.

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<sup>2</sup> GC 412/90

- (2) Subject to sub-paragraph (1), interest on the Department's equity share in the dwelling is charged on each anniversary at whichever is the lesser of the following –
- (a) the relevant rate + 5%; or
  - (b) a rate of 1% per annum, increasing by 1% on each subsequent anniversary.
- (3) In this paragraph –

“**the relevant rate**” means the Bank of England's Base Rate as last published on the anniversary (or, if that rate ceases to be published, such other rate as Treasury may determine); and

“**anniversary**” means the anniversary of the date of purchase of the dwelling.

## 17 Order of priority for repayment

- (1) For the purposes of paragraph 18 (purchasing equity share), any repayment must be repaid in the following order –
- (a) any interest due up to and including the date of repayment calculated in accordance with paragraph 16 (interest); followed by,
  - (b) the Department's equity share.
- (2) The Department's equity share will rank as a second charge on the property, any charge in favour of a commercial mortgagee having priority.

## 18 Purchasing equity share

An assisted person can buy out the total or part of the Department's equity share in the dwelling, at the prevailing market rate, at any time if –

- (a) the amount of the Department's equity share that the assisted person is buying out under this paragraph is –
  - (i) the whole of the remaining equity share; or
  - (ii) greater than £5000;
- (b) the assisted person has not previously purchased a part of the Department's equity share in the current financial year;
- (c) the assisted person pays the administrative fee to the Department as set out in paragraph 7(2) (fees); and
- (d) the assisted person pays all professional, mortgage, registration and any other fees and expenses incurred by him or her or them in connection with the purchase of the Department's equity share.

## **19 Transfer of equity share**

- (1) Subject to sub-paragraph (4), if the title of the dwelling is held in the sole name of an assisted person, including a person to whom a share in the dwelling has been transferred under paragraph 20 (disposal of the dwelling to a remaining assisted person), (“A”) A may, at the discretion of the Department, be permitted to purchase the dwelling jointly with another person (“B”) if sub-paragraphs (2) and (3) are satisfied.
- (2) This sub-paragraph is satisfied if B –
  - (a) is qualified under Division 2 (qualifications for assistance), and
  - (b) submits an application under and subject to the provisions of paragraph 6 (applications);and is therefore eligible as an assisted person under the terms of the Scheme.
- (3) This sub-paragraph is satisfied if the title and the security documents are transferred into the joint names of A and B at no cost to the Department.
- (4) In a case where A and B have purchased the dwelling jointly, B does not have any right under this paragraph to transfer the assistance further.

## **20 Disposal of the dwelling to a remaining assisted person**

Disposal of a dwelling from a joint assisted persons to a remaining assisted person may, at the discretion of the Department, be permitted provided that—

- (a) the Department is satisfied that the remaining applicant can finance security on the dwelling on his or her own; and
- (b) that all the title and the security documents are transferred into the name of the remaining applicant at no cost to the Department.

## **21 Disposal of the dwelling**

- (1) Subject to sub-paragraph (2), the dwelling can be disposed of at any time by –
  - (a) the assisted person, or
  - (b) his or her or their estate, or
  - (c) any person deriving title under him or her or them, if the assisted person dies.
- (2) At the time of disposal –
  - (a) any of the Department’s outstanding equity share in the dwelling at the prevailing market rate; and
  - (b) any interest under paragraph 16 (interest);must be repaid.

**MADE**

**R H QUAYLE**  
*Minister for Social Care*

Consultation Draft

**SCHEDULE**  
**ELIGIBILITY CRITERIA**

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<b>Eligible persons</b>	<b>Maximum annual income</b>	<b>Dwelling type</b>	<b>Maximum purchase price</b>
Single persons	£35,000	Apartments; 2 bedroom house	up to £165,000
Couples – no children	£55,000	Apartments; 2 and 3 bedroom houses	up to £175,000
Single or couple with 1 or more children	£60,000	2, 3 and 4 bedroom houses	up to £190,000

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### *EXPLANATORY NOTE*

*(This note is not part of the Scheme)*

This Scheme enables the Department of Social Care (“the Department”) to assist first-time buyers in purchasing a property on the open market by obtaining an equity share in the property. This Scheme is provided for under sections 4 and 7 of the Housing (Miscellaneous Provision) Act 2011.

Division 1 introduces the Scheme and its extent.

Paragraph 4 provides for the purpose of the Scheme, which is to enable financial assistance to be given by the Department in purchasing an equity share of an open market dwelling.

Paragraph 5 provides for the extent of the assistance, which may be up to 30% of the market value of the property in exchange for a corresponding equity share in the property.

Paragraph 6 outlines how applications for assistance will be made and the circumstances in which applications will be rejected.

Paragraph 7 provides for fees which will be applied to applications and equity buy backs under the Scheme. Fees are £100 for the initial application and £50 where the assisted person wishes to purchase some or all of the Department’s equity share.

Division 2 outlines the qualifications for assistance.

Paragraph 8 provides for who will be eligible for assistance under the Scheme.

Paragraph 9 introduces the table in the Schedule to this Scheme which outlines the eligibility criteria for assistance under this Scheme. It also provides details of how an assisted person’s income will be assessed for the purposes of this Scheme.

Paragraphs 10 and 11 provide for the deposit and mortgage an assisted person must have in place in order to be able to obtain assistance under this Scheme.

Division 3 outlines the conditions of assistance.

Paragraph 13 provides for the restrictions on assistance and also outlines the assisted person’s responsibilities whilst assistance is being provided.

Paragraph 14 outlines the consequences of a failure to comply with the conditions of assistance under this Scheme.

Paragraph 15 provides for the circumstances whereby assistance may be provided under this Scheme to a person previously assisted under an earlier House Purchase Assistance Scheme.

Paragraph 16 provides for the calculation of interest that will be charged on the Department's equity share in a dwelling.

Paragraph 17 provides for the order of priority for any equity buy back under the Scheme.

Paragraph 18 provides for the conditions where an assisted person can buy out all or part of the Department's equity share in a dwelling.

Paragraph 19 provides for the circumstances in which a sole assisted person can purchase the property jointly with another person.

Paragraph 20 provides that where the property is jointly owned, it can be transferred to one of the assisted persons subject to certain criteria.

Paragraph 21 deals with the disposal of a property when an assisted person dies, and that the Department's full equity share is repaid at the current market value.