STATUTORY INSTRUMENTS

1980 No. 1430 (S.115)

HOUSING, SCOTLAND

The Right to Purchase (Loans) (Scotland) Regulations 1980

Made - - - -	*24th September* 1980
Laid before Parliament	*26th September* 1980
Coming into Operation	*17th October* 1980

In exercise of the powers conferred upon me by section 5(3) of the Tenants' Rights, Etc. (Scotland) Act 1980(a) and of all other powers enabling me in that behalf, I hereby make the following regulations:—

Citation etc.

1.—(1) These regulations may be cited as the Right to Purchase (Loans) (Scotland) Regulations 1980 and shall come into operation on 17th October 1980.

(2) In these regulations, unless the context otherwise requires—

" admissible source " means a source of income of the applicant which is to be taken into account for the purposes of these regulations ;

" assessment date " means the date of the applicant's loan application under section 5 of the Tenants' Rights, Etc. (Scotland) Act 1980 ;

" applicant " has the meaning given to it by section 5(1) of the Tenants' Rights, Etc. (Scotland) Act 1980.

Maximum Amount of Loan

2. The maximum amount of loan to be specified in an offer of loan served under section 5(3) of the Tenants' Rights, Etc. (Scotland) Act 1980 shall be the amount to be taken into account as the applicant's available annual income multiplied by the appropriate factor.

Available Annual Income

3. An applicant's available annual income is to be calculated by taking the amount which in accordance with regulations 4 to 8 is to be taken into account as his annual income and deducting from it in accordance with regulation 9 sums related to his commitments.

Income from Employment

4.—(1) This regulation applies to income from an employment which the applicant has at the assessment date.

(a) 1980 c. 52.

(2) No account shall be taken of income from a casual or temporary employment.

(3) The amount to be taken into account as the applicant's annual income from an employment to which this regulation applies, which is not excluded from account by paragraph (2), is an amount calculated—

(*a*) if his pay does not normally vary from one pay period to another, by multiplying the amount of his pay for his last pay period before the assessment date by the number of his pay periods in a year ; or

(*b*) if his pay normally varies from one pay period to another, by multiplying his average pay for a pay period, calculated in accordance with paragraph (4), by the number of his pay periods in a year.

(4) For the purposes of paragraph (3)(*b*), the applicant's average pay for a pay period shall be calculated by taking his pay for the period of 13 weeks ending on his last pay day before the assessment date and dividing it by the number of his pay periods in that period.

(5) An adjustment shall be made in calculating the applicant's annual income from an employment if, as a result of a pay settlement reached before the assessment date, his pay has changed and the change affects his pay for a period to be taken into account in calculating his annual income from the employment or a subsequent period ending on or before the assessment date.

(6) The adjustment shall secure that the calculation is based on the applicant's rate of pay after the change occurs.

(7) In this regulation—

" employment " includes office ; and

" pay " means gross pay before any statutory or other deduction and includes any commission, bonus, allowance (other than an expense allowance), tip, gratuity or other payment made to an applicant in connection with his employment, but does not include any benefit in kind.

Income from a business

5.—(1) This regulation applies to income from a business carried on by the applicant (whether or not with any other person) at the assessment date.

(2) The amount to be taken into account as the applicant's annual income from the business is an amount equal to the net profit of the business for the basis year or, if he shares the net profit with any other person, his share of the net profit for that year.

(3) Subject to paragraph (4), the basis year is a period of 12 months ending on any date in the month preceding the assessment date.

(4) If—

(*a*) on the assessment date figures for the period of 12 months mentioned in paragraph (3) are not readily available to the applicant but figures for an earlier period of 12 months ending in that period are ; and

(*b*) the applicant requires the landlord or, if the landlord is a housing co-operative, the district or islands council to take the figures for the earlier period of 12 months into account,

the basis year shall be the earlier period of 12 months.

(5) In this regulation " business " includes any trade, profession or vocation.

Other income

6.—(1) This regulation applies to income, which the applicant has at the assessment date, from a source to which regulations 4 and 5 do not apply.

(2) No account shall be taken of state benefits other than benefits under—

(*a*) sections 35 and 36 of the National Insurance Act 1965(**a**) (graduated retirement benefits);

(*b*) sections 8, 15 and 16 of the Social Security Pensions Act 1975(**b**) (widower's retirement pensions, widow's and widower's invalidity pensions); and

(*c*) the following provisions of the Social Security Act 1975(**c**)—

sections 15, 16 and 36 (invalidity benefits);

sections 25 and 26 (widow's benefits);

sections 28, 29, 39 and 40 (retirement pensions);

sections 57(1) and (6) (disability benefits);

sections 67(1) and (2)(a), 69, 70, 71(1) and (2), and 72(1) and (2) (industrial death benefits); and

section 76 (industrial disease benefits) to the extent that it relates to any benefit by way of pension or other periodical payments.

(3) The amount to be taken into account as the applicant's annual income from a source to which this regulation applies, which is not excluded from account by paragraph (2), is the gross amount of that income, before any statutory or other deduction, for the period of 12 months ending on the assessment date.

(4) In this regulation " state benefits " means any benefits under the Family Income Supplements Act 1970(**d**), the Social Security Acts 1975 to 1980(**e**) the Child Benefit Act 1975(**f**) and the Supplementary Benefits Act 1976(**g**).

Adjustment for temporary reduction in income

7.—(1) If the applicant's income from an admissible source is temporarily reduced below its normal level for any period taken into account in determining his annual income from that source but has been restored to its normal level by the assessment date, the amount taken into account as his annual income from that source shall be adjusted.

(2) The adjustment shall secure that the amount taken into account as his annual income from that source is what it would have been if the reduction had not occurred.

(**a**) 1965 c. 51, as continued in force by regulation 3 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393).
(**b**) 1975 c. 60.
(**c**) 1975 c. 14.
(**d**) 1970 c. 55.
(**e**) 1975 c. 14, 1975 c. 60, 1977 c. 5, 1979 c. 18, 1980 c. 30.
(**f**) 1975 c. 61.
(**g**) 1976 c. 76.

Income from more than one source

8. If the applicant has income from more than one admissible source, the amount to be taken into account as his annual income shall be the total amount of his annual income from all admissible sources determined in accordance with the provisions of these regulations.

Deductions for commitments

9.—(1) Sums related to the applicant's commitments are to be deducted from the amount to be taken into account as his annual income if at the assessment date he is liable to make—

(a) any maintenance payments ; or

(b) any payments under a credit agreement ; or

(c) any payments under a court order ;

and the payments are likely to continue for more than 18 months after the assessment date.

(2) The sums which are to be deducted are sums equal in total to the total of the payments, for which the conditions in paragraph (1) are satisfied, for the period of 12 months beginning with the assessment date.

(3) In this regulation—

" credit agreement " means a loan agreement, hire purchase agreement or other agreement for credit ; and

" maintenance payment " means any payment by the applicant for the maintenance of a dependent child under the age of 16 or for the maintenance of his spouse or former spouse.

Estimates

10. The landlord or, if the landlord is a housing co-operative, the district or islands council may accept any estimate made for the purposes of any of the preceding provisions of these regulations.

Applicants comprising more than one person

11. Where the applicant comprises more than one person, the preceding provisions of these regulations are to be applied separately to determine the amount of each person's available annual income.

Appropriate Factors

12.—(1) This regulation specifies the appropriate factor to be applied as a multiplier of the applicant's available annual income to arrive at the limit imposed by regulation 2.

(2) Where the applicant comprises only one person the appropriate factor is 2·5 unless he is aged 60 or over, in which case it is either 2, if he is aged 60-64, or 1, if he is aged 65 or above. The age of the applicant is to be taken as his age on the date on which an application to purchase was served under section 2(1) of the Tenants' Rights, Etc. (Scotland) Act 1980 in respect of the house which the applicant has applied for a loan to assist him to purchase (or, where there has been more than one such application, the last of them).

(3) Where the applicant comprises more than one person, the appropriate factor is 1, subject to paragraph (4).

(4) Where the applicant comprises more than one person but the available annual income of one of those persons is such that the maximum amount of loan which would be derived from treating that person as if he were the only person comprising the applicant would be greater than the maximum amount of loan which would be derived from the application of paragraph (3) that person shall be deemed to be the only person comprising the applicant and the appropriate factor shall be as provided in paragraph (2).

Terms of Loan

13.—(1) Any offer of loan served by a landlord or, where the landlord is a housing co-operative, by an islands or district council shall contain an undertaking by the landlord to make available a loan on the terms specified in paragraphs (2) and (3) or on such other terms as may be agreed by the applicant prior to service of a notice of acceptance under section 5(5) of the Tenants' Rights, Etc. (Scotland) Act 1980.

(2) Repayment of the loan shall be in equal instalments of principal and interest combined.

(3) The period over which repayment is to be made shall be 25 years but shall be capable of being extended by the lender.

Information to be Contained in the Offer of Loan

14. Any offer of loan served by a landlord or, where the landlord is a housing co-operative, by an islands or district council shall be accompanied by a statement of the amount of the monthly repayment, gross and net of tax relief calculated at the standard rate of income tax on the full amount of the interest which the applicant would be required to pay on a loan of the amount requested in his loan application or the maximum amount of loan specified in the offer of loan, whichever is the lesser, on the terms specified in regulation 13 (or such other terms as the applicant has agreed to) and at the interest rate which would be charged if the loan were commencing on the date of service of the offer of loan.

George Younger.

One of Her Majesty's Principal Secretaries of State.

New St. Andrew's House,
Edinburgh.

24th September 1980.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations, which apply to Scotland, prescribe the method of calculation of the maximum amount of loan to be specified in an offer of loan served on an applicant under section 5 of the Tenants' Rights, Etc. (Scotland) Act 1980 for a loan from his landlord (or, where his landlord is a housing co-operative, from the local islands or district council) in order to assist him to purchase a house in relation to which the tenant has applied, under section 2(1) of that Act, to exercise the right to purchase conferred upon him by section 1 of that Act and has received an offer to sell. The regulations also prescribe certain terms of loan which are to be included in offers of loans and certain information about the cost of repayment which is to be provided with offers of loans.

Regulations 2 to 12 deal with the calculation of a maximum amount of loan by multiplying an applicant's available annual income by the appropriate factor.

Regulation 13 deals with the terms of loans which are to be offered.

Regulation 14 deals with information which is to accompany offers of loans.

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