

# **Home Owners' Support Fund**

## **Administrative Procedures**

**March 2009**



**The Scottish  
Government**

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## Introduction

These administrative procedures provide detailed guidance for registered social landlords, local authorities, money advisers and the Scottish Government and its agents on the operation of the Mortgage to Rent scheme. They also provide detailed guidance for money advisers and the Scottish Government and its agents on the operation of the Mortgage to Shared Equity scheme. They contain information on the following:

### **Part one: Mortgage to Rent and Mortgage to Shared Equity**

This Part of the administrative procedures contains:

- an introduction to the Mortgage to Rent and Mortgage to Shared Equity schemes (Section one);
- the action owners<sup>1</sup> must take before making an application to the schemes (Section two);
- the time when applications should be made to the schemes, and the initial assessment process that will apply to all applications (Section three); and
- the maximum property price ceilings – by apartment size – that will apply to the schemes, as well as a map showing the various property price ceiling areas (Annexe A).

### **Part two: Mortgage to Rent**

This Part of the administrative procedures contains:

- the detailed assessment process that will apply specifically to applications to the Mortgage to Rent scheme (Section one);
- the process that will be followed when concluding applications to the scheme (Section two);
- the target turnaround timescale for handling applications to the scheme (Section three); and

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<sup>1</sup> Throughout these procedures the term 'owner' is taken to include all those in whose name the title to the property is registered. It also includes the owner's spouse, that is the person to whom the owner is married, or with whom they are in a civil partnership, or with whom they have co-habitation rights recognised by a court.

- the following set of Annexes:
  - the methodology that will be applied when calculating grant funding (including an illustrated example) (Annexe A);
  - illustrated examples showing some of the financial circumstances that may arise for owners when applying to the scheme (Annexe B); and
  - the standard forms of letter advising all interested parties that an application has been approved (Annexe C).

### **Part three: Mortgage to Shared Equity**

This Part of the administrative procedures contains:

- the detailed assessment process that will apply specifically to applications to the Mortgage to Shared Equity scheme, and the process that will be followed when concluding applications to the scheme (Section one);
- the target turnaround timescale for handling applications to the scheme (Section two);
- the procedures to be followed when an owner wishes to reduce the Scottish Ministers' equity stake or sell their property; and
- the following set of Annexes:
  - the standard form of letter advising owners that their application has been approved (Annexe A);
  - the standard forms of legal documentation (Annexe B);
  - an illustrated worked example showing how an application to the scheme may be processed (Annexe C); and
  - an illustrated worked example of a financial reconciliation when an owner wishes to reduce the Scottish Ministers' equity stake (Annexe D).

Any questions regarding these procedures should be referred to:

The Home Owners' Support Fund Team  
The Scottish Government  
Housing and Regeneration  
Highlander House  
58 Waterloo Street  
Glasgow  
G2 7DA

Tel: 0845 279 9999

# Part one: Mortgage to Rent and Mortgage to Shared Equity

## Section one

### An introduction

1.1 The Mortgage to Rent and Mortgage to Shared Equity schemes form part of the Scottish Government's Home Owners' Support Fund. An introduction to both schemes is provided below.

### Mortgage to Rent

1.2 **The aim of the Mortgage to Rent scheme is to help home owners who are in financial difficulty and are in danger of being made homeless. The scheme helps by enabling these households to remain in their home by selling it to a social landlord (normally a housing association or local authority) and becoming tenants of that social landlord. It is targeted at lower value properties.** To be eligible for consideration under the Mortgage to Rent scheme, owners must:

- own a home which is valued at less than the published local maximum price for that apartment size of property (see Annexe A)<sup>2</sup>. (The only exception to this is in the case of households with particular housing needs arising from disability<sup>3</sup> where additional flexibility can be applied to the value of properties under consideration. In considering such cases the Scottish Government will take into account any alternative ways in which the household's housing needs – and their need to remain in the area – could be met);
- have obtained independent advice about their financial situation from a Citizens Advice Bureau, Money Advice outlet, local authority money advice centre or a similar approved agency (see Section two);
- be ineligible for help through any UK Government support scheme – such as Income Support for Mortgage Interest;
- hold less than 25 per cent equity in their property except where they (i) have had a trustee appointed to their estate or (ii) hold a mortgage that is **not** conducted on a capital and interest repayment basis;

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<sup>2</sup> The local maximum price ceilings at Annexe A will be kept under review and will be updated periodically. The price ceilings contained within this Annexe are based on the number of apartments a property has – that is the number of rooms excluding any kitchens, hallways and bathrooms. They are current as at March 2009, and future updates will be placed on the Scottish Government's website.

<sup>3</sup> The term 'disability' in this context is used to mean someone who has 'a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities'. We will require a suitably qualified expert, such as an Occupational Therapist, to certify that this is the case.

- have been unable to make full payments on a loan(s) secured against their property for at least three months, and have cumulative arrears of at least one month;
- have been unable to reach agreement with their lender on how to manage the arrears. (This criterion does not apply in the case of owners who have had a trustee appointed to their estate.);
- not normally own a home elsewhere;
- confirm that at least one of the owners wishes to remain in the property, and that at least one of the owners has lived in the property for at least 12 months; and
- not hold capital in excess of £2,000 if they are under 60 years of age, or £4,000 if they are 60 years or over (see Section three, paragraph 3.3).

**1.3 The Mortgage to Rent scheme is administered and funded by the Scottish Government and provides resources to social landlords so that they can buy properties and rent them back to former owners.** Funding is made available to landlords to enable a social rent to be charged and to assist towards any necessary repairs to bring properties up to the Scottish Housing Quality Standard (as well as any necessary repairs identified as a result of gas and electrical safety checks). The scheme also funds the owner's conveyancing costs<sup>4</sup> and pays for a survey of the property.

### **Mortgage to Shared Equity**

**1.4 The aim of the Mortgage to Shared Equity scheme is also to help home owners who are in financial difficulty and are in danger of being made homeless. The scheme allows owners to retain ownership of their home by reducing the level of debt secured against it to a manageable level. It is targeted at lower value properties.** To be eligible for consideration under the Mortgage to Shared Equity scheme, owners must:

- own a home which is valued at less than the published local maximum price for that apartment size of property (see Annexe A)<sup>5</sup>. (The only exception to this is in the case of households with particular housing needs arising from disability<sup>6</sup> where additional flexibility can be applied to the value of properties under consideration. In considering such cases the Scottish Government will take into account any alternative ways in which the household's housing needs – and their need to remain in the area – could be met);

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<sup>4</sup> The participating scheme solicitor will act for owners in the sale of their property.

<sup>5</sup> The local maximum price ceilings at Annexe A will be kept under review and will be updated periodically. The price ceilings contained within this Annexe are based on the number of apartments a property has – that is the number of rooms excluding any kitchens, hallways and bathrooms. They are current as at March 2009, and future updates will be placed on the Scottish Government's website.

<sup>6</sup> The term 'disability' in this context is used to mean someone who has 'a physical or mental impairment that has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities'. We will require a suitably qualified expert, such as an Occupational Therapist, to certify that this is the case.

- have obtained independent advice about their financial situation from a Citizens Advice Bureau, Money Advice outlet or local authority money advice centre (see Section two);
- be ineligible for help through any UK Government support scheme – such as Income Support for Mortgage Interest;
- have 25 per cent or more equity in their property;
- not have had a trustee appointed to their estate and hold a mortgage that is conducted on a capital and interest repayment basis;
- have been unable to make full payments on a loan(s) secured against their property for at least three months, and have cumulative arrears of at least one month;
- have been unable to reach agreement with their lender on how to manage the arrears;
- not normally own a home elsewhere;
- confirm that at least one of the owners wishes to remain in the property, and that at least one of the owners has lived in the property for at least 12 months;
- be living in a property which is above the Tolerable Standard<sup>7</sup>; and
- not hold capital in excess of £2,000 if they are under 60 years of age, or £4,000 if they are 60 years or over (see Section three, paragraph 3.3).

**1.5 The Mortgage to Shared Equity scheme is administered by the Scottish Government. Funding is paid directly to the owner's secured lender(s) and is made available in the form of an equity stake.** This enables the owner to reduce the level of debt secured against their property to a manageable level. In the majority of cases, owners will be expected to redeem the Scottish Government's equity stake within 10 years if they are in a position to do so.

1.6 Owners are responsible for meeting the costs they incur (including outlays) when taking forward an application to the Mortgage to Shared Equity scheme.

### **Sharing owners and 'LIFT' shared equity owners**

1.7 Sharing owners, and shared equity owners who bought their home through the Scottish Government's Low-cost Initiative for First-Time Buyers (LIFT)<sup>8</sup>, are ineligible for consideration under the Mortgage to Shared Equity scheme. These owners are however eligible for consideration under the Mortgage to Rent scheme.

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<sup>7</sup> The Tolerable Standard is set out in section 86 of the Housing (Scotland) Act 1987, as amended by the Housing (Scotland) Act 2001 and the Housing (Scotland) Act 2006.

<sup>8</sup> This includes shared equity owners who bought their home through the Homestake shared equity scheme which was launched in 2005.

# Part one: Mortgage to Rent and Mortgage to Shared Equity

## Section two

### Independent money advice

2.1 **Before an application can be considered for the Mortgage to Rent or Mortgage to Shared Equity schemes, owners must receive independent advice regarding their overall financial situation from a Citizens Advice Bureau, Money Advice outlet, local authority money advice centre or similar approved agency.** A list of approved agencies can be found at [www.scotland.gov.uk](http://www.scotland.gov.uk) This minimises the number of applications from owners that have other options and therefore maximises the opportunity for the schemes to be used to help those most in need. Being eligible for one of the schemes does not necessarily mean that it is the right course of action for the owner to take. Receiving independent advice will also maximise the number of owners that are able to remain in their homes without the use of the Mortgage to Rent or Mortgage to Shared Equity schemes.

2.2 Independent money advisers are able to give advice to owners on the implications of Housing Benefit entitlement in relation to any application to the Mortgage to Rent scheme.

2.3 Citizens Advice Bureaux, Money Advice outlets, local authority money advice centres and approved agencies have a stock of leaflets for the Mortgage to Rent and Mortgage to Shared Equity schemes. They also have a stock of standard application forms and are able to help owners complete the necessary paperwork.

2.4 The Scottish Government is able to provide advice limited to the details of both schemes. It is not for the Scottish Government to provide guidance on whether one of the schemes would be the right course of action for any owner, nor is it for the Scottish Government to provide legal or financial advice to any applicant.

# Part one: Mortgage to Rent and Mortgage to Shared Equity

## Section three

### Submitting applications

3.1 **The standard application form must be completed in full when applying to the schemes.** Applications will be considered in the order in which they are received. It is possible however that in some circumstances there may not be funding available to meet the demands of the schemes. In such circumstances, a process for prioritising applications will be developed and publicised on the Scottish Government's website. This would mean however that some owners who meet the eligibility criteria for the schemes may not be able to receive assistance.

### Assessing applications

3.2 There is a standard set of information required from each owner in order for their application to be assessed. **On receipt of a fully completed application form with all supporting documentation, the Scottish Government will carry out an initial assessment based on the data provided by the owner, a search against the property<sup>9</sup>, and a desk-based valuation of the property<sup>10</sup>.** The Scottish Government will instruct and pay for the property search and desk-based valuation and will:

- compare the open market value of the property – using if necessary a 10 per cent error margin in favour of the owner remaining eligible – with the relevant local maximum price for that apartment size of property (see Annexe A). **To be eligible for the scheme, the property value must be less than the published local maximum price for that apartment size of property. The only exception to this is in the case of households with particular housing needs arising from disability where additional flexibility can be applied to the value of properties under consideration** (see Part one, Section two);
- check that the owner has received independent advice about their financial situation from a Citizens Advice Bureau, Money Advice outlet, local authority money advice centre or other approved agency – proof that advice has been received must be provided;
- check that the owner is not eligible to receive assistance from any UK Government support scheme – proof that this is the case must be provided;
- check that all owners have signed the application form;

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<sup>9</sup> This is commissioned by the participating scheme solicitor.

<sup>10</sup> This is provided by the participating scheme surveyor.

- check that the owner has been unable, rather than unwilling, to make full payments on a loan(s) secured against their property for at least three months, and that they have cumulative arrears of at least one month – independent proof of both must be provided. Or alternatively, the Scottish Government will check that the owner has had a trustee appointed to their estate, and that their trustee is looking to force the sale of the property – again independent proof must be provided;
- check that the owner has been in contact with their secured lender(s) and has been unable to reach agreement with them on managing the arrears – independent proof must be provided. Again, this criterion does not apply in the case of owners who have had a trustee appointed to their estate;
- check whether the owner owns any other home elsewhere;
- check that at least one of the owners wishes to remain in the property, and that at least one of the owners has lived in the property for at least 12 months; and
- assess whether the case is ineligible because of the total amount of capital held by the owners. **Owners under 60 years of age are ineligible if they have a combined amount of capital in excess of £2,000. If at least one of the owners in the household is 60 years or over, the combined allowable capital amount is £4,000.** The definition of capital used to determine these limits is set out in the following paragraph.

### 3.3 The definition of capital incorporates:

- savings including cash, premium bonds, stocks and shares, unit trusts, bank or building society accounts and fixed-term investments;
- the surrender value of any life assurance or endowment policies that are not linked to the mortgage, unless the reason for financial difficulty is ill-health, the policy holder is terminally ill and the policy is providing life cover;
- equity in any other property owned;
- redundancy payments; and
- pension lump sum payments.

## Eligible applications

3.4 If, as a result of the initial assessment process, it is determined that an owner would be eligible for further consideration through the Mortgage to Rent or Mortgage to Shared Equity scheme the owner will receive a letter advising that the Scottish Government will (i) instruct and pay for a Scheme 2 survey of the property and (ii) obtain redemption statements from all lenders with loans secured over the property, from any organisations that have placed an inhibition against the property, and from the owner's trustee in cases where a trustee has been appointed to their estate. The redemption statements will take into account any early redemption charges, as well as any outstanding interest, arrears and charges which the lender has not yet capitalised.

3.5 The Scheme 2 survey contains an open market valuation of the property in its current state, which will be used to determine the owner's continued eligibility for the Mortgage to Rent or Mortgage to Shared Equity scheme. (There will be no error margin in favour of the owner being eligible at this stage given that the Scottish Government appointed surveyor will have visited the property.) As noted previously, the open market valuation of the property must be less than the published local maximum price for that size of property (except in cases involving households with particular housing needs arising from disability where additional flexibility can be applied).

3.6 If the open market valuation of the property meets the above eligibility criterion, the Scottish Government will calculate the level of equity that the owner has in the property by deducting the level of secured debt (plus the cost of lifting any inhibitions and, where appropriate, discharging any trustee) from the open market value and expressing this amount as a percentage of the open market value. **This calculation is only carried out in cases where the owner has not had a trustee appointed to their estate, the mortgage is conducted on a capital and interest repayment basis, and the property is assessed as being above the Tolerable Standard<sup>11</sup>. It is used to determine – and thereafter advise owners – as to whether their application will be considered for the Mortgage to Rent or Mortgage to Shared Equity scheme.**

## Ineligible applications

3.7 If an owner is ineligible for the schemes, the Scottish Government will write advising them of this and of the reasons why. The owner is advised to consult with their lender and/ or money adviser about their overall financial difficulties.

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<sup>11</sup> If the property is deemed to be below the Tolerable Standard, the application will be considered under the Mortgage to Rent scheme; and the rules for the operation of that scheme will be applied.

## Part 1: Mortgage to Rent and Mortgage to Shared Equity

### Annexe A

#### Local maximum property prices

Area	Number of apartments <sup>12</sup>	Maximum price
Aberdeen City	2	95,000
Aberdeen City	3	125,000
Aberdeen City	4	140,000
Aberdeen City	5	185,000
Aberdeen City	6	250,000
Argyll and Bute	2	80,000
Argyll and Bute	3	85,000
Argyll and Bute	4	95,000
Argyll and Bute	5	145,000
Argyll and Bute	6	195,000
Arran	2	70,000
Arran	3	75,000
Arran	4	90,000
Arran	5	110,000
Arran	6	195,000
Central Aberdeenshire	2	120,000
Central Aberdeenshire	3	135,000
Central Aberdeenshire	4	160,000
Central Aberdeenshire	5	205,000
Central Aberdeenshire	6	240,000
Central Mainland (Highland)	2	95,000
Central Mainland (Highland)	3	120,000
Central Mainland (Highland)	4	140,000
Central Mainland (Highland)	5	180,000
Central Mainland (Highland)	6	220,000
Clackmannanshire	2	60,000
Clackmannanshire	3	80,000
Clackmannanshire	4	105,000
Clackmannanshire	5	170,000
Clackmannanshire	6	185,000
Dumfries and Galloway	2	70,000
Dumfries and Galloway	3	90,000
Dumfries and Galloway	4	105,000
Dumfries and Galloway	5	145,000
Dumfries and Galloway	6	190,000

<sup>12</sup> The Scottish Government will consider applications from owners requiring to remain in larger properties on their merits.

Dundee/ Angus	2	70,000
Dundee/ Angus	3	80,000
Dundee/ Angus	4	100,000
Dundee/ Angus	5	150,000
Dundee/ Angus	6	185,000
East Mainland (Highland)	2	60,000
East Mainland (Highland)	3	70,000
East Mainland (Highland)	4	85,000
East Mainland (Highland)	5	95,000
East Mainland (Highland)	6	145,000
Edinburgh and the Lothians	2	110,000
Edinburgh and the Lothians	3	120,000
Edinburgh and the Lothians	4	135,000
Edinburgh and the Lothians	5	155,000
Edinburgh and the Lothians	6	210,000
Eilean Siar	2	
Eilean Siar	3	
Eilean Siar	4	
Eilean Siar	5	
Eilean Siar	6	
Falkirk	2	65,000
Falkirk	3	80,000
Falkirk	4	100,000
Falkirk	5	160,000
Falkirk	6	190,000
Fife	2	65,000
Fife	3	80,000
Fife	4	100,000
Fife	5	155,000
Fife	6	185,000
Glasgow <sup>13</sup>	2	75,000
Glasgow	3	95,000
Glasgow	4	105,000
Glasgow	5	160,000
Glasgow	6	230,000
Inverclyde and Renfrewshire	2	60,000
Inverclyde and Renfrewshire	3	70,000
Inverclyde and Renfrewshire	4	90,000
Inverclyde and Renfrewshire	5	120,000
Inverclyde and Renfrewshire	6	195,000
Moray	2	80,000
Moray	3	95,000
Moray	4	110,000
Moray	5	140,000
Moray	6	170,000

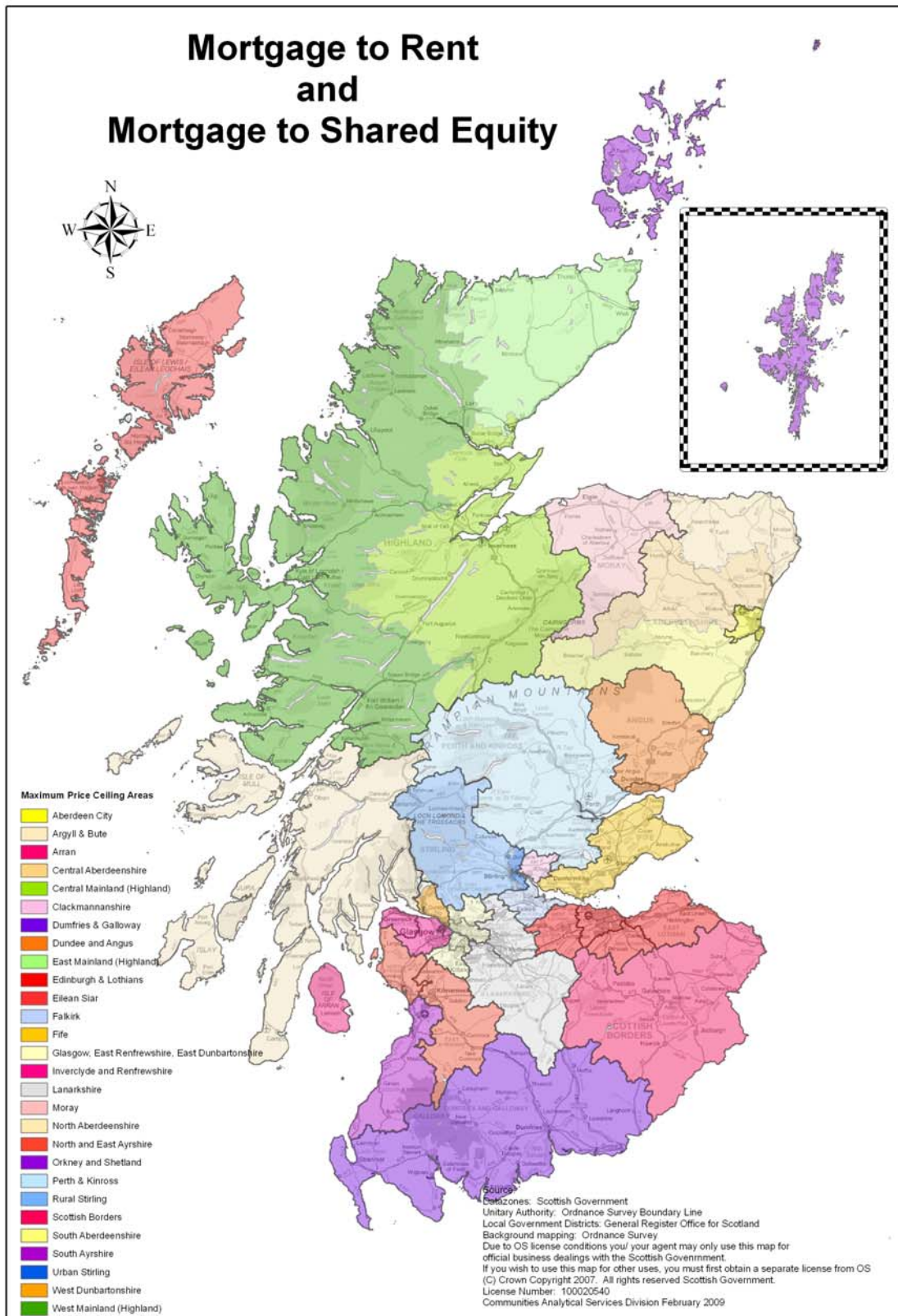
<sup>13</sup> The Glasgow area includes East Dunbartonshire and East Renfrewshire.

North Aberdeenshire	2	70,000
North Aberdeenshire	3	80,000
North Aberdeenshire	4	100,000
North Aberdeenshire	5	130,000
North Aberdeenshire	6	165,000
North and East Ayrshire	2	65,000
North and East Ayrshire	3	70,000
North and East Ayrshire	4	80,000
North and East Ayrshire	5	100,000
North and East Ayrshire	6	180,000
North and South Lanarkshire	2	65,000
North and South Lanarkshire	3	70,000
North and South Lanarkshire	4	80,000
North and South Lanarkshire	5	115,000
North and South Lanarkshire	6	175,000
Orkney and Shetland	2	
Orkney and Shetland	3	
Orkney and Shetland	4	
Orkney and Shetland	5	
Orkney and Shetland	6	
Perth and Kinross	2	90,000
Perth and Kinross	3	100,000
Perth and Kinross	4	135,000
Perth and Kinross	5	180,000
Perth and Kinross	6	230,000
Rural Stirling	2	100,000
Rural Stirling	3	125,000
Rural Stirling	4	175,000
Rural Stirling	5	255,000
Rural Stirling	6	330,000
Scottish Borders	2	75,000
Scottish Borders	3	90,000
Scottish Borders	4	130,000
Scottish Borders	5	185,000
Scottish Borders	6	210,000
South Aberdeenshire	2	105,000
South Aberdeenshire	3	135,000
South Aberdeenshire	4	160,000
South Aberdeenshire	5	195,000
South Aberdeenshire	6	240,000
South Ayrshire	2	75,000
South Ayrshire	3	80,000
South Ayrshire	4	105,000
South Ayrshire	5	130,000
South Ayrshire	6	190,000

Urban Stirling	2	80,000
Urban Stirling	3	95,000
Urban Stirling	4	115,000
Urban Stirling	5	180,000
Urban Stirling	6	245,000
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West Dunbartonshire	2	65,000
West Dunbartonshire	3	75,000
West Dunbartonshire	4	90,000
West Dunbartonshire	5	155,000
West Dunbartonshire	6	190,000
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West Mainland (Highland)	2	85,000
West Mainland (Highland)	3	105,000
West Mainland (Highland)	4	120,000
West Mainland (Highland)	5	155,000
West Mainland (Highland)	6	215,000

Maximum property values are currently being calculated for Eilean Siar, Orkney and Shetland. These will be added to the above table by the end of March 2009. In the meantime, owners in those areas wishing to apply should contact the Home Owners' Support Fund Team.

# Mortgage to Rent and Mortgage to Shared Equity



## Part two: Mortgage to Rent

### Section one

#### Detailed assessment of applications

1.1 The detailed assessment of applications to the Mortgage to Rent scheme involves up to six main elements:

- highlighting shortfall situations to owners (and their money advisers) (see paragraph 1.2);
- identifying and working with social landlords (see paragraphs 1.3 to 1.4);
- arrangements for funding the cost of excess repairs (see paragraph 1.5);
- calculating the purchase price (see paragraph 1.6);
- calculating the funding available to social landlords (see paragraph 1.7); and
- obtaining final redemption statements (if necessary) and calculating the amount of capital, if any, that the owner can keep following the sale of the property (see paragraphs 1.8 to 1.11).

#### Shortfall situations

1.2 If the initial assessment of an application shows that an owner(s) is in a shortfall situation, the Scottish Government will write to the owner asking them to contact their money adviser – or the secured lender(s), inhibitor or trustee who will incur the shortfall. The Scottish Government will require written confirmation from the secured lender(s), inhibitor or trustee that they will agree to release the security or inhibition on the property, which will allow the Scottish Government to continue to process the application. Before agreeing to the shortfall, the secured lender(s), inhibitor, or trustee must be made aware that the shortfall is likely to increase before settlement should the application proceed to a successful conclusion.

#### Identifying and working with social landlords

1.3 Once an application has passed the initial assessment stage (and confirmation is received from the secured lender(s), inhibitor, or trustee in shortfall cases (in line with paragraph 1.2 above)), the Scottish Government will seek to find a social landlord that is willing to buy the property. **The Scottish Government maintains a list of social landlords that take part in the Mortgage to Rent scheme in different areas across Scotland and will approach these landlords on a 'first-come first-served' basis so long as they meet the target timescale set out in Section three and there is no obvious social landlord operating in the immediate area of the property.**

1.4 Landlords will receive a copy of the Scheme 2 survey of the property completed by the Scottish Government appointed surveyor. Although landlords will wish to visit properties to:

- assess their condition (including the commissioning of gas and electrical safety checks);
- carry out their normal pre-tenancy checks; and
- determine the social rent that would be charged,

**landlords must be prepared to accept the findings of the Scheme 2 survey report to be eligible to take part in the Mortgage to Rent scheme.** This includes the list and cost of repairs required to bring the property up to the Scottish Housing Quality Standard. The only additional repairs that the Scottish Government will consider funding are those required as a result of gas and electrical safety checks commissioned by the landlord – the Scottish Government will normally accept the landlord’s estimate for the cost of any work arising as a result of these checks.

### **Funding excess repairs**

1.5 **The maximum funding that the Scottish Government will make available for repairs to a property is £6,000.** Properties requiring more than £6,000 of repairs will therefore be ineligible for consideration unless the excess can be funded from one of the following sources.

#### ***Cases where there is equity in the property***

1.5.1 In cases where the owner would have been entitled to keep capital following the sale of the property (£8,000 or £12,000 depending on the age of the owner (see paragraphs 1.9 and 1.10)), the owner will be required to fund the cost of excess repairs from the capital that would have been returned to them.

1.5.2 If however the cost of excess repairs exceeds the amount of capital that the owner would have been entitled to keep, the social landlord will be asked whether it would be willing to fund the cost of excess repairs. If this is not possible, the secured lender(s), inhibitor or trustee will be asked whether they would be willing to accept a reduced amount.

#### ***Shortfall cases***

1.5.3 In cases of shortfall, the social landlord will be asked whether it would be willing to fund the cost of excess repairs. If this is not possible, the secured lender(s), inhibitor or trustee will be asked whether they would be willing to accept a reduced amount.

1.5.4 If landlords wish to carry out work that is outwith the scope of the Mortgage to Rent scheme, then they must meet the cost of this themselves.

## **Calculating the purchase price**

1.6 The Scheme 2 survey contains an 'adjusted open market value', which is the open market value adjusted for the assumption that the property is improved to the Scottish Housing Quality Standard. In cases where additional repairs are required as a result of landlord commissioned gas and electrical safety checks, the Scottish Government appointed surveyor will be asked to provide an updated adjusted open market value. **The price that will be paid for the property is calculated by deducting the total cost of repairs (up to a maximum of £6,000) from the adjusted open market value.**

## **Calculating the funding available to social landlords**

1.7 The methodology for calculating the funding that will be made available to social landlords (including an illustrated example) is set out in Annexe A.

## **Obtaining final redemption statements (if necessary) and calculating the amount of capital**

1.8 If the redemption statements received at the initial assessment stage are out-of-date at the detailed assessment stage, updated statements will be sought from all lenders with loans secured over the property, from any organisations that have placed an inhibition against the property, and from the owner's trustee in cases where a trustee has been appointed to their estate.

## ***Owners aged 16 to 59***

1.9 Following the sale of the property<sup>14</sup>, owners who have capital in excess of £8,000 will be required to contribute to the cost of funding the scheme. Any capital in excess of £8,000 will therefore be returned to the Scottish Government and will be put towards the cost of funding the scheme. The definition of capital for assessing the position after sale is set out in paragraph 1.11.

## ***Owners aged 60 or over***

1.10 Where an owner (or one of the owners) is aged 60 or over, the same rules apply but the allowable capital limit for that household is £12,000.

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<sup>14</sup> For the avoidance of doubt, the terms of paragraphs 1.9 and 1.10 do apply to owners who have had a trustee appointed to their estate. In such cases, the amount of capital which the owners have 'following the sale of the property' will be determined after all sums due by the owner(s) have been paid.

### ***Definition of capital***

1.11 The definition of capital incorporates:

- savings including cash, premium bonds, stocks and shares, unit trusts, bank or building society accounts and fixed-term investments;
- the surrender value of any life assurance or endowment policies (regardless of whether they were or were not linked to the mortgage);
- equity in the Mortgage to Rent property following the sale, and equity in any other property owned;
- redundancy payments; and
- pension lump sum payments.

### **Worked examples**

1.12 Worked examples illustrating some of the financial circumstances that may arise in applications to the Mortgage to Rent scheme can be found in Annexe B.

## **Part two: Mortgage to Rent**

### **Section two**

#### **Concluding applications**

2.1 Using the information obtained at the detailed assessment stage, the Scottish Government will write to all interested parties using the standard styles of letter at Annexe C.

#### **Change of tenure**

2.2 The tenancy agreement must begin on the same date that the sale is completed.

#### **Tenancy conditions**

2.3 The landlord will let properties on Scottish Secure Tenancy terms after purchase. Where the landlord is unable to offer a Scottish Secure Tenancy equivalent terms must be offered.

2.4 The rules regarding prospective tenants with a record of previous anti-social behaviour, as set out in Schedule 6 of the Housing (Scotland) Act 2001, will however apply. The scheme is supportive of probationary tenancies being considered by landlords in such cases.

## Part two: Mortgage to Rent

### Section three

#### Target timescales

3.1 Considerable importance is attached to turning applications around quickly and minimising the effect that the process has on the arrears situation and personal circumstances of the household. **Target** timescales for each stage of a fully completed Mortgage to Rent application (where there is no shortfall situation) are as follows:

<b>Stage</b>	<b>Timescale</b>	<b>Responsibility</b>
Initial assessment	5 weeks	Scottish Government Participating surveyor Participating solicitor Secured lenders Inhibitors Trustees
Landlord identification	1 week	Scottish Government
Landlord confirmation	2 weeks	Participating landlord
Receipt of final redemption figures & updated adjusted open market value	3 weeks	Scottish Government Secured lenders Inhibitors Trustees Participating surveyor
Preparation of standard forms of letter	2 weeks	Scottish Government
Acceptance of standard forms of letter	2 weeks	All relevant parties
Conveyancing process	5 weeks	Participating solicitors

## Part two: Mortgage to Rent

### Annexe A

#### Funding calculation for the purchasing landlord (including an illustrated example)<sup>15</sup>

1. The **approved costs** on which grant will be based are:
  - the property purchase price;
  - the cost of repairs required to bring the property up to the Scottish Housing Quality Standard (plus the cost of repairs required as a result of gas and electrical checks) – up to a maximum of £6,000; and
  - an administration allowance of £900.
2. **The actual grant approved will be the approved costs less assumed private finance.**
3. **The assumed private finance will be calculated by the Scottish Government based on current Housing Association Grant (HAG) guidance for registered social landlords as follows:**

#### Step one

The Scottish Government will assume a benchmark rent for the property. This will be the benchmark used by the Scottish Government for HAG appraisal purposes and will depend on the property size in persons – that is the number of bed spaces and not actual occupancy.

For financial year 2009-2010 the benchmark rents are:

Persons	1	2	3	4	5	6	7
Conversion factor from 3 person	0.72	0.89	<b>1.00</b>	1.09	1.16	1.20	1.30
Rent per annum (£)	2,321	2,869	<b>3,224</b>	3,514	3,740	3,869	4,191

Benchmark three person rents will be updated annually and will be included in a Housing Investment Guidance Note published on the Scottish Government website; the current guidance note is HIGHN 2009/03. Rents for other property sizes are calculated using the conversion factors above.

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<sup>15</sup> This Annexe does not apply to shared ownership cases. The Scottish Government will follow the relevant shared ownership guidance when calculating the level of grant funding that would be made available in cases involving sharing owners.

## Step two

Deduct 1 per cent for voids to give a net rent.

## Step three

Assume standard operating costs for management, maintenance and major repairs. These are currently set out in HIGN 2009/02 and are updated normally annually. It is the allowances for rehabilitation that are used in this calculation. The assumed management costs will vary depending on the number of properties the landlord owns.

## Step four

To calculate the assumed private finance:

- multiply the net rent (from Step two) by 19.775. This multiplier is published in HIGN 2009/02 and is reviewed annually normally. This gives the capitalised net rent;
- multiply the total operating costs from Step three (management, maintenance and major repairs) by 17.569. This multiplier is also published in HIGN 2009/02 and is reviewed annually normally. This gives capitalised operating costs; and
- deduct the capitalised operating costs figure from the capitalised net rent figure to determine the assumed private finance.

**4. Grant will then be calculated by deducting the assumed private finance (paragraph 3) from the approved costs (paragraph 1).**

5. The grant is the actual amount that the Scottish Government will pay. The assumed rents, operating costs and private finance assumptions are all notional figures. The Scottish Government expects landlords to charge affordable social rents, to meet the performance standards set by the Scottish Housing Regulator, and to maintain the property to the Scottish Housing Quality Standard. Within these parameters, social landlords are free to determine actual rents, operating costs and financing arrangements.

6. A worked example of the above calculation is given on the next page.

### Worked example

Purchase price	£90,000
Repairs	£ 6,000
Administrative allowance	£ 900
Total approved cost	£96,900

The property has two double bedrooms so is a four person property. The assumed rent is therefore £3,514 per annum. Deducting 1 per cent voids gives a net rent of £3,479.

The landlord has a stock of 2,100 houses. This means that the management allowance (from HIGN 2009/02) is £321 and the maintenance allowance is £805. The property is more than 10 years old, so the maximum major repairs allowance is £590. Total operating costs are therefore £1,716.

The net rent of £3,479 is multiplied by 19.775 to give a capitalised net rent of £68,797. And total operating costs are multiplied by 17.569 to give capitalised operating costs of £30,148. The assumed private finance is therefore £38,649 (£68,797 less £30,148).

The Scottish Government will provide grant of £58,251. This is calculated by deducting the assumed private finance of £38,649 from the total approved cost of £96,900.

## **Part two: Mortgage to Rent**

### **Annexe B**

#### **Illustrated worked examples**

##### **Example 1 – Loan redeemed in full following the sale of the property**

Jim and Kate are both 55 years old and jointly own their three apartment home, which they have lived in for two years. They have been unable to make any payments on their mortgage for three months, and have been unable to reach agreement with their lender on how to manage their arrears. They have received independent advice about their financial situation from their local Money Advice outlet, and are ineligible for any UK Government support scheme. The open market value of their property is £68,000, which is within the published maximum price ceiling for their area. They had no capital when they applied to the scheme and hold less than 25 per cent equity in their property.

The total cost of work required to bring the property up to the Scottish Housing Quality Standard (including work identified as a result of gas and electrical safety checks) is £4,000, and the adjusted open market value is £71,000. The purchase price is therefore £67,000 (£71,000 less £4,000).

The amount owing on the couple's mortgage is £65,000. This means that the debt would be repaid in full from the purchase price. As there are no other creditors with an interest in the property, Jim and Kate would receive the rest of the sale proceeds which amounts to £2,000.

## Illustrated worked examples (continued)

### Example 2 – Applicant is a sharing owner and there is a shortfall following the sale

Sue is 45 years old and owns 50 per cent of her three apartment property, which she has lived in for six years. The remaining 50 per cent is owned by a registered social landlord. She has been unable to make full payments on her mortgage for five months, and has cumulative arrears of two months. She has been unable to reach agreement with her lender on how to manage her arrears, and has received independent advice about her financial situation from her local Citizens Advice Bureau. Sue is ineligible for any UK Government support scheme. The open market value of her property is £65,000, which is within the published maximum price ceiling for her size of property in her area. She had no capital when she applied to the scheme and holds less than 25 per cent equity in her property. There are no other creditors with an interest in the property.

The total cost of work required to bring the property up to the Scottish Housing Quality Standard (including work identified as a result of gas and electrical safety checks) is £500, and the adjusted open market value is £66,000. Sue's share of the purchase price is therefore £32,500 (£33,000 less £500<sup>16</sup>).

The amount owing on Sue's mortgage is £37,000. This means that her secured loan would not be repaid in full from the sale proceeds – there would be a shortfall of £4,500 (£32,500 less £37,000). Sue must therefore agree a repayment plan with her mortgage lender for the shortfall amount to allow her application to proceed.

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<sup>16</sup> Under the terms of her Exclusive Occupancy Agreement, Sue is responsible for meeting the total cost of repairs to her property.

## **Illustrated worked examples (continued)**

### **Example 3 – Shortfall following the sale involving three lenders**

William and Jane are both 63 years old and jointly own their three apartment property, where they have lived for 15 years. They have three secured loans over the property – one for £50,000, one for £40,000 and one for £35,000. They have been unable to make any payments on the first secured loan for three months, and have been unable to reach agreement with their lender on how to manage the arrears. They have received independent advice about their financial situation from their local Citizens Advice Bureau, and are ineligible for any UK Government support scheme. The open market value of their property is £115,000, which is within the published maximum price ceiling for their size of property in their area. They had no capital when they applied to the scheme and hold less than 25 per cent equity in their property.

There are no repairs required to the property so the purchase price is £115,000. The purchase price would be used to pay off the first loan of £50,000 and second loan of £40,000. The couple's other secured lender is owed £35,000 however there is only £25,000 of equity remaining which means that there will be a shortfall of £10,000. William and Jane must therefore agree a repayment plan with this lender for the shortfall amount to allow their application to the Mortgage to Rent scheme to proceed.

## **Illustrated worked examples (continued)**

### **Example 4 – Applicants with capital in excess of allowable limits following the sale of the property**

Tom is 65 years old and Pam is 58 years old – they jointly own their four apartment property, where they have lived for four years. They have been unable to make full payments on their mortgage for three months, and have cumulative arrears of two months. They have been unable to reach agreement with their lender on how to manage their arrears, and have received independent advice about their financial situation from their local authority money advice centre. Tom and Pam are ineligible for any UK Government support scheme. The open market value of their property is £80,000, which is within the published maximum price ceiling for their size of property in their area. They had no capital when they applied to the scheme and hold less than 25 per cent equity in their property. There are no other creditors with an interest in the property.

The total cost of work required to bring the property up to the Scottish Housing Quality Standard (including work identified as a result of gas and electrical safety checks) is £2,500, and the adjusted open market value is £85,000. The purchase price is therefore £82,500 (£85,000 less £2,500).

The amount owing on the couple's mortgage is £65,000. This means that the debt would be repaid in full from the sale proceeds – leaving equity of £17,500 (£82,500 less £65,000). As Tom is over 59 years of age they would be entitled to keep a maximum of £12,000 from the sale proceeds. The remaining £5,500 of equity (£17,500 less £12,000) would require to be paid to the Scottish Government as a contribution towards funding the scheme.

## Illustrated worked examples (continued)

### Example 5 – Applicant pays for excess repairs from their equity following the sale

John and Alison are both 40 years old and jointly own their three apartment property, where they have lived for seven years. They have been unable to make any payments on their mortgage for three months, and have been unable to reach agreement with their lender on how to manage their arrears. They have received independent advice about their financial situation from their local Money Advice outlet, and are ineligible for any UK Government support scheme. The open market value of their property is £85,000, which is within the published maximum price ceiling for their size of property in their area. They had no capital when they applied to the scheme and hold less than 25 per cent equity in their property. As well as their mortgage, a loan finance company has placed an inhibition against their property.

The total cost of work required to bring the property up to the Scottish Housing Quality Standard (including work identified as a result of gas and electrical safety checks) is £7,000<sup>17</sup>, and the adjusted open market value is £90,000. The purchase price is therefore £84,000 (£90,000 less £6,000).

The amount owing on the couple's mortgage is £70,000, and the cost of lifting the inhibition is £10,000. This means that the debt would be repaid in full from the sale proceeds – leaving equity of £4,000 (£84,000 less £80,000). Under the scheme rules however, John and Alison must fund the excess repairs amount of £1,000 from equity that would have been returned to them. This means that the couple would be entitled to receive £3,000 from the sale proceeds (£4,000 less £1,000).

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<sup>17</sup> This is £1,000 in excess of the maximum repairs subsidy of £6,000 allowed by the scheme.

## Illustrated worked examples (continued)

### Example 6 – Excess repairs in a shortfall situation

Madhu is 55 years old and owns his two apartment property, where he has lived for three years. He has been unable to make any payments on his mortgage for five months, and has been unable to reach agreement with his lender on how to manage his arrears. He has received independent advice about his financial situation from his local Citizens Advice Bureau, and is ineligible for any UK Government support scheme. The open market value of his property is £70,000, which is within the published maximum price ceiling for his size of property in his area. He had no capital when he applied to the scheme and holds less than 25 per cent equity in his property. There are no other creditors with an interest in the property.

The total cost of work required to bring the property up to the Scottish Housing Quality Standard (including work identified as a result of gas and electrical safety checks) is £10,000<sup>18</sup>, and the adjusted open market value is £75,000. The purchase price is therefore £69,000 (£75,000 less £6,000).

The amount owing on Madhu's mortgage is £72,000. This means that his secured loan would not be repaid in full from the sale proceeds – there would be a shortfall of £3,000 (£69,000 less £72,000).

As there is no spare equity in this case, the social landlord would be approached in the first instance to see whether they would be willing to fund the excess repairs amount of £4,000 (£10,000 less £6,000). If the social landlord was unwilling to fund the excess repairs, Madhu's secured lender would need to be willing to accept a larger shortfall of £7,000 (£3,000 plus £4,000) in order for his application to remain eligible.

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<sup>18</sup> This is £4,000 in excess of the maximum repairs subsidy of £6,000 allowed by the scheme.

## **Illustrated worked examples (continued)**

### **Example 7 – One of the applicants will not live in the property after the sale**

Hugh and Julie are both 50 years old and although they jointly own a three apartment property they have separated. Hugh no longer lives in the property and Julie has lived there for five years. The couple have been unable to make full payments on their mortgage for three months, and have cumulative arrears of over one month. They have been unable to reach agreement with their lender on how to manage their arrears and have received independent advice about their financial situation from their local Money Advice outlet. They are ineligible for any UK Government support scheme. The open market value of their property is £85,000, which is within the published maximum price ceiling for their size of property in their area. They had no capital when they applied to the scheme and hold less than 25 per cent equity in their property. There are no other creditors with an interest in the property.

The total cost of work required to bring the property up to the Scottish Housing Quality Standard (including work identified as a result of gas and electrical safety checks) is £5,000, and the adjusted open market value is £88,000. The purchase price is therefore £83,000 (£88,000 less £5,000).

Both Hugh and Julie have signed the application form allowing the application to go ahead. The amount owing on their mortgage is £70,000. This means that the debt would be repaid in full from the purchase price. Under the rules of the scheme, Hugh and Julie would be allowed to retain (as a couple) a maximum of £8,000 – this means they would receive £4,000 each. The remaining balance of £5,000 would be paid to the Scottish Government as a contribution towards funding the scheme.

## **Illustrated worked examples (continued)**

### **Example 8 – One of the applicants has been sequestered**

Rob and Lisa are both 30 years old and jointly own their three apartment property, where they have lived for six years. They have a mortgage over their property and are not in payment arrears. Rob has however been sequestered and his trustee is forcing the sale of the property. They have received independent advice about their financial situation from their local Money Advice outlet and decide that they would like to take forward an application to the Mortgage to Rent scheme.

The open market value of their property is £95,000, which is within the published maximum price ceiling for their size of property in their area. They had no capital when they applied to the Mortgage to Rent scheme.

The total cost of work required to bring the property up to the Scottish Housing Quality Standard (including work identified as a result of gas and electrical safety checks) is £2,500, and the adjusted open market value is £97,500. The purchase price is therefore £95,000 (£97,500 less £2,500).

The amount owing on the couple's mortgage is £80,000. This means that their mortgage would be repaid in full from the purchase price – leaving equity of £15,000 (£95,000 less £80,000). Half of this equity (£7,500) would be paid to Rob's permanent trustee following his sequestration. The remaining equity of £7,500 would be paid to Rob and Lisa as this is within the capital limits of the scheme. However, prior to the sale being completed, Lisa was also sequestered therefore the remaining equity of £7,500 would be paid to her trustee as her half-share of the property now vested in her trustee.

## **Illustrated worked examples (continued)**

### **Example 9 – Applicant owns a second property which is rented out**

Helen is 35 years old and owns a two apartment property, which she has lived in for three years. She has been unable to make any payments on her mortgage for four months, and has been unable to reach agreement with her lender on how to manage her arrears. She has received independent advice about her financial situation from her local Citizens Advice Bureau, and is ineligible for any UK Government support scheme. The open market value of her property is £75,000, which is within the published maximum price ceiling for her size of property in her area. She holds less than 25 per cent equity in her property. As well as her mortgage, Helen has one other loan secured over her property.

Helen stated in her application form that she owns another two apartment property, which is rented out to her elderly parents. Under the rules of the scheme, Helen's application would be ineligible if she holds capital in excess of £2,000. To ensure that this amount was not exceeded, a report and valuation were obtained on the second property, and an up-to-date outstanding mortgage balance requested for this property. The report and open market valuation showed a figure of £60,000 and the outstanding mortgage was confirmed as £58,500, establishing that the capital held in the property was £1,500. As this sum was below the £2,000 limit – and Helen had no other capital – her application was eligible for further consideration.

There are no repairs required to Helen's main property so the purchase price is £75,000. The purchase price would be used to pay off her two secured loans, which amount to £70,000. This would leave equity in her main property of £5,000. Taking this amount of equity into account and the capital held in Helen's other property the total capital is £6,500 (£5,000 plus £1,500). As this is less than the allowable capital limit of the scheme (£8,000), Helen receives the equity realised following the sale of her main property (£5,000).

## **Illustrated worked examples (continued)**

### **Example 10 – Applicant is ineligible for assistance**

Karen is 40 years old and owns her three apartment home, which she has lived in for 10 years. She has been unable to make any payments on her mortgage for four months, and has been unable to reach agreement with her lender on how to manage her arrears. She has received independent advice about her financial situation from her local Citizens Advice Bureau, and is ineligible for any UK Government support scheme. Karen has no capital and holds less than 25 per cent equity in her property. The open market value of her property is however £120,000, which is outwith the published maximum price ceiling for her area. Karen is therefore ineligible for assistance through the Mortgage to Rent scheme.

## Part two: Mortgage to Rent

### Annexe C

**Standard forms of letter advising all interested parties that an application has been approved**

**Owner(s) letter 1 – All free equity to be paid to the owner(s) and no excess repairs**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

I am pleased to confirm that your application to the Scottish Government's Home Owners' Support Fund has been successful and I am able to offer you the opportunity to take part in the Mortgage to Rent scheme.

I would like to remind you that, in order for the sale to proceed, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will purchase the property from you and will give you a Scottish Secure Tenancy or a tenancy on equivalent terms. They will explain in full the terms and conditions of your tenancy, which will include your rent, your right to repairs, and their right to have access to your property to carry out repairs.

[ ] will pay [ ] for the property. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to your property, which total [ ]. The repairs to be carried out are detailed in the attached Schedule.

The total outstanding debt secured against your property is [ ], as detailed in the attached Schedule. It is important to remember however that this figure may vary and indeed may increase before the property is sold. The purchase price paid by [ ] will be used to repay the total outstanding debt secured against your property.

Based on the above figures, there will be equity of [ ] remaining from the sale of your property. However, this figure is subject to change and cannot be guaranteed. Your arrears may continue to increase until the sale is concluded and any increase in arrears or costs will reduce the amount you are entitled to receive.

The attached Schedule shows how the purchase price will be distributed. It shows that you will be entitled to keep any equity remaining from the sale of your property. This is because any remaining equity will not exceed £8,000/ £12,000, which is the maximum amount of capital you are allowed to keep under the rules of the scheme (please see page [ ] of the attached information leaflet). Any remaining equity will only be paid to you after the sale has completed.

The scheme solicitor, Harper Macleod LLP, will act on your behalf during the conveyancing process. As soon as all parties agree to proceed with the sale of your property, we will instruct them on your behalf and they will contact you to complete the conveyancing process.

In the event of any change in your circumstances which would make you ineligible to take part in the Mortgage to Rent scheme, this offer will lapse and will no longer be available to you. You must immediately notify us in writing of any such change.

In the event that any information provided by you during the application process proves to have been false or misleading, we reserve the right to recover from you any payments made.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

I/ We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ ( )

\_\_\_\_\_ (Date)

## Schedule

### *Agreed repairs*

Repairs	Cost
<b>Total cost including VAT</b>	

### *Outstanding debt secured against your property*

Name of lender	Loan reference	Amount	Date
	<b>Total</b>		

The outstanding debt secured against your property may change before it is repaid.

### *Distribution of sale proceeds*

<b>Purchase price</b>	

These figures may change before the debt is repaid.

**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Owner(s) letter 2 – Equity in excess of the allowable capital limit of the scheme (£8,000 or £12,000) and no excess repairs**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

I am pleased to confirm that your application to the Scottish Government's Home Owners' Support Fund has been successful and I am able to offer you the opportunity to take part in the Mortgage to Rent scheme.

I would like to remind you that, in order for the sale to proceed, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will purchase the property from you and will give you a Scottish Secure Tenancy or a tenancy on equivalent terms. They will explain in full the terms and conditions of your tenancy, which will include your rent, your right to repairs, and their right to have access to your property to carry out repairs.

[ ] will pay [ ] for the property. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to your property, which total [ ]. The repairs to be carried out are detailed in the attached Schedule.

The total outstanding debt secured against your property is [ ], as detailed in the attached Schedule. It is important to remember however that this figure may vary and indeed may increase before the property is sold. The purchase price paid by [ ] will be used to repay the total outstanding debt secured against your property.

Based on the above figure, there will be equity of [ ] remaining from the sale of your property. However, this figure is subject to change and cannot be guaranteed. Your arrears may continue to increase until the sale is concluded and any increase in arrears or costs will reduce the amount you are entitled to receive.

The scheme solicitor, Harper Macleod LLP, will act on your behalf during the conveyancing process. If all parties agree to proceed with the sale of your property, we will instruct them on your behalf and they will contact you to complete the conveyancing process.

By your written acceptance and return of this offer as detailed below, you agree to pay us any equity remaining from the sale of your property which is in excess of the maximum allowable capital limit of the scheme. As detailed in page [ ] of the attached information leaflet, there is a maximum allowable capital limit of £8,000/£12,000. Any sum over and above this capital limit must be paid to the Scottish Government for costs associated with running the Mortgage to Rent scheme. Your acceptance will constitute an irrevocable mandate authorising Harper Macleod LLP to make this payment to us.

The attached Schedule shows how the purchase price will be distributed. Based on current figures, which are subject to change, you will receive [ ] from the sale proceeds.

In the event of any change in your circumstances which would make you ineligible to take part in the Mortgage to Rent scheme, this offer will lapse and will no longer be available to you. You must immediately notify us in writing of any such change.

In the event that any information provided by you during the application process proves to have been false or misleading, we reserve the right to recover from you any payments made.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

I/ We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ ( )

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Owner(s) letter 3 – Insufficient funds to repay secured lender(s) and no excess repairs**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

I am pleased to confirm that your application to the Scottish Government's Home Owners' Support Fund has been successful and I am able to offer you the opportunity to take part in the Mortgage to Rent scheme.

I would like to remind you that, in order for the sale to proceed, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will purchase the property from you and will give you a Scottish Secure Tenancy or a tenancy on equivalent terms. They will explain in full the terms and conditions of your tenancy, which will include your rent, your right to repairs, and their right to have access to your property to carry out repairs.

[ ] will pay [ ] for the property. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to your property, which total [ ]. The repairs to be carried out are detailed in the attached Schedule.

The total outstanding debt secured against your property is [ ], as detailed in the attached Schedule. It is important to remember however that this figure may vary and indeed may increase before the property is sold.

The purchase price paid by [ ] will be used towards repaying this debt. Based on current figures, there will however be a shortfall of [ ] which you will owe to [ ]. Before agreeing to the sale of your property through the Mortgage to Rent scheme, they must receive proposals from you to repay this shortfall. **If you have not already done so, please contact your money adviser for help with this. It is important that you do this as a matter of urgency.** As mentioned previously, this figure is subject to change and cannot be guaranteed. Your arrears may continue to increase until the sale is concluded and any increase in arrears or costs will increase this shortfall.

The attached Schedule shows how the purchase price will be distributed.

The scheme solicitor, Harper Macleod LLP, will act on your behalf during the conveyancing process. If all parties agree to proceed with the sale of your property, we will instruct them on your behalf and they will contact you to complete the conveyancing process.

In the event of any change in your circumstances which would make you ineligible to take part in the Mortgage to Rent scheme, this offer will lapse and will no longer be available to you. You must immediately notify us in writing of any such change.

In the event that any information provided by you during the application process proves to have been false or misleading, we reserve the right to recover from you any payments made.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

I/ We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ ( )

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Owner(s) letter 4 – Secured loan(s) repaid, no excess repairs, and remaining equity paid to a trustee**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

I am pleased to confirm that your application to the Scottish Government's Home Owners' Support Fund has been successful and I am able to offer you the opportunity to take part in the Mortgage to Rent scheme.

I would like to remind you that, in order for the sale to proceed, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to proceed with the sale of your property, we will instruct the scheme solicitor, Harper Macleod LLP, on your behalf and they will contact you to complete the conveyancing process.

If the sale takes place, [ ] will purchase the property from you and will give you a Scottish Secure Tenancy or a tenancy on equivalent terms. They will explain in full the terms and conditions of your tenancy, which will include your rent, your right to repairs, and their right to have access to your property to carry out repairs.

[ ] will pay [ ] for the property. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to your property, which total [ ]. The repairs to be carried out are detailed in the attached Schedule.

The total outstanding debt secured against your property is [ ], as detailed in the attached Schedule. It is important to remember however that this figure may vary and indeed may increase before the property is sold. Based on the above figures, there will be equity of [ ] remaining from the sale of your property.

[ ] have placed an inhibition against the property. This prevents the sale from going ahead until all sums due by you have been repaid. We have asked them to release the inhibition in return for the equity left following the sale. Your written acceptance and return of this offer as detailed below will constitute an irrevocable mandate authorising Harper Macleod LLP to make this payment.

In addition, under the rules of the Mortgage to Rent scheme, applicants may be entitled to keep a certain amount of capital once their debts have been paid. As detailed in page [ ] of the attached information leaflet, if you are under 60 the limit is £8,000. And if you are 60 or over the limit is £12,000. This means that once all sums due by you have been repaid, if there is more than £8,000/ £12,000 remaining, you must agree to your trustee paying any money in excess of £8,000/ £12,000 to the Scottish Government for costs associated with running the Mortgage to Rent scheme. Your written acceptance and return of this offer as detailed below will constitute an irrevocable mandate authorising [ ] to make this payment.

The attached Schedule shows how the purchase price will be distributed.

In the event of any change in your circumstances which would make you ineligible to take part in the Mortgage to Rent scheme, this offer will lapse and will no longer be available to you. You must immediately notify us in writing of any such change.

In the event that any information provided by you during the application process proves to have been false or misleading, we reserve the right to recover from you any payments made.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

I/ We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ ( )

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Owner(s) letter 5 – Equity in excess of the allowable capital limit of the scheme (£8,000 or £12,000) and excess repairs funded from the owner’s equity**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

I am pleased to confirm that your application to the Scottish Government’s Home Owners’ Support Fund has been successful and I am able to offer you the opportunity to take part in the Mortgage to Rent scheme.

I would like to remind you that, in order for the sale to proceed, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to proceed with the sale of your property, we will instruct the scheme solicitor, Harper Macleod LLP, on your behalf and they will contact you to complete the conveyancing process.

If the sale takes place, [ ] will purchase the property from you and will give you a Scottish Secure Tenancy or a tenancy on equivalent terms. They will explain in full the terms and conditions of your tenancy, which will include your rent, your right to repairs, and their right to have access to your property to carry out repairs.

[ ] will pay [ ] for the property. This figure is based on an adjusted open market value of [ ] less £6,000, which is the maximum amount that we can contribute towards the cost of repairs required to your property. The repairs to be carried out are detailed in the attached Schedule.

The total outstanding debt secured against your property is [ ], as detailed in the attached Schedule. It is important to remember however that this figure may vary and indeed may increase before the property is sold. The purchase price paid by [ ] will be used to repay the total outstanding debt secured against your property.

Based on the above figures, there will be equity of [ ] remaining from the sale of your property. However, this figure is subject to change and cannot be guaranteed. Your arrears may continue to increase until the sale is concluded and any increase in arrears or costs will reduce the amount you are entitled to receive.

By your written acceptance and return of this offer as detailed below, you agree to pay us any equity remaining from the sale of your property which is in excess of the maximum allowable capital limit of the scheme. As detailed in page [ ] of the attached information leaflet, there is a maximum allowable capital limit of £8,000/£12,000. Any sum over and above this capital limit must be paid to the Scottish Government for costs associated with running the Mortgage to Rent scheme. Your acceptance will constitute an irrevocable mandate authorising Harper Macleod LLP to make this payment to us.

The scheme can fund repairs to a maximum value of £6,000. The cost of repairs required to your property is [ ]. The excess repairs amount of [ ] will be paid to [ ] from the free equity being returned to you. Your written acceptance and return of this offer as detailed below will constitute an irrevocable mandate authorising Harper Macleod LLP to make this payment to them.

The attached Schedule shows how the purchase price will be distributed. Based on current figures, which are subject to change, you will receive [ ] from the sale proceeds.

In the event of any change in your circumstances which would make you ineligible to take part in the Mortgage to Rent scheme, this offer will lapse and will no longer be available to you. You must immediately notify us in writing of any such change.

In the event that any information provided by you during the application process proves to have been false or misleading, we reserve the right to recover from you any payments made.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

I/ We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ ( )

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Owners letter 6 – Secured loan(s) repaid, no excess repairs, one owner has had a trustee appointed to their estate, and equity in excess of the allowable capital limit of the scheme (£8,000 or £12,000)**

Dear [ ]

**Mortgage to Rent scheme reference number:  
Property address:**

I am pleased to confirm that your application to the Home Owners' Support Fund has been successful and I am able to offer you the opportunity to take part in the Mortgage to Rent scheme.

I would like to remind you that, in order for the sale to proceed, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to proceed with the sale of your property, we will instruct the scheme solicitor, Harper Macleod LLP, on your behalf and they will contact you to complete the conveyancing process.

If the sale takes place, [ ] will purchase the property from you and will give you a Scottish Secure Tenancy or a tenancy on equivalent terms. They will explain in full the terms and conditions of your tenancy, which will include your rent, your right to repairs, and their right to have access to your property to carry out repairs.

[ ] will pay [ ] for the property. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to your property, which total [ ]. The repairs to be carried out are detailed in the attached Schedule.

The total outstanding debt secured against your property is [ ], as detailed in the attached Schedule. It is important to remember however that this figure may vary and indeed may increase before the property is sold. The purchase price paid by [ ] will be used to repay the total outstanding debt secured against your property.

Based on the above figures, there will be equity of [ ] remaining from the sale of your property. However, as mentioned previously, this figure is subject to change and cannot be guaranteed. Your arrears may continue to increase until the sale is concluded and any increase in arrears or costs will reduce the amount you are entitled to receive.

[ ] have placed an inhibition against your property. We have asked them to release the inhibition in return for half of the remaining equity following the sale. We have also asked them to pay us any funds remaining after all sums due by [ ] have been repaid. Your written acceptance and return of this offer as detailed below will constitute an irrevocable mandate authorising Harper Macleod LLP and [ ] to make these payments.

By your written acceptance and return of this offer as detailed below, you agree to pay us any equity remaining from the sale of your property which is in excess of the maximum allowable capital limit of the scheme. As detailed in page [ ] of the attached information leaflet, there is a maximum allowable capital limit of £8,000/£12,000. Any sum over and above this capital limit must be paid to the Scottish Government for costs associated with running the Mortgage to Rent scheme. Your acceptance will constitute an irrevocable mandate authorising Harper Macleod LLP to make this payment to us.

The attached Schedule shows how the purchase price will be distributed. Based on current figures, which are subject to change, you will receive [ ] from the sale proceeds.

In the event of any change in your circumstances which would make you ineligible to take part in the Mortgage to Rent scheme, this offer will lapse and will no longer be available to you. You must immediately notify us in writing of any such change.

In the event that any information provided by you during the application process proves to have been false or misleading, we reserve the right to recover from you any payments made.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

I/ We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ ( )

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Owner letter 7 – No secured loans, no excess repairs but the owner has a trustee**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

I am pleased to confirm that your application to the Scottish Government's Home Owners' Support Fund has been successful and I am able to offer you the opportunity to take part in the Mortgage to Rent scheme.

I would like to remind you that, in order for the sale to proceed, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to proceed with the sale of your property, we will instruct the scheme solicitor, Harper Macleod LLP, on your behalf and they will contact you to complete the conveyancing process.

If the sale takes place, [ ] will purchase the property from you and will give you a Scottish Secure Tenancy or a tenancy on equivalent terms. They will explain in full the terms and conditions of your tenancy, which will include your rent, your right to repairs, and their right to have access to your property to carry out repairs.

[ ] will pay [ ] for the property. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to your property, which total [ ]. The repairs to be carried out are detailed in the attached Schedule.

[ ] has placed an inhibition against your property. We have asked them to release the inhibition in return for the full purchase price. Your written acceptance and return of this offer as detailed below will constitute an irrevocable mandate authorising Harper Macleod LLP to make this payment.

In addition, under the rules of the Mortgage to Rent scheme, applicants may be entitled to keep a certain amount of capital once their debts have been paid. As detailed in page [ ] of the attached information leaflet, if you are under 60 the limit is £8,000. And if you are 60 or over the limit is £12,000. This means that once all sums due by you have been repaid, if there is more than £8,000/ £12,000 remaining, you must agree to your trustee paying any money in excess of £8,000/ £12,000 to the Scottish Government for costs associated with running the Mortgage to Rent scheme. Your written acceptance and return of this offer as detailed below will constitute an irrevocable mandate authorising [ ] to make this payment.

The attached Schedule shows how the purchase price will be distributed.

In the event of any change in your circumstances which would make you ineligible to take part in the Mortgage to Rent scheme, this offer will lapse and will no longer be available to you. You must immediately notify us in writing of any such change.

In the event that any information provided by you during the application process proves to have been false or misleading, we reserve the right to recover from you any payments made.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

I/ We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ ( )

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Landlord letter 1 – No excess repairs**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owner(s):**

I refer to [ ] application to the Scottish Government's Home Owner's Support Fund. This has now been assessed and is eligible within the rules of the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to you for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]. The repairs to be carried out are detailed in the attached Schedule.

If the sale takes place, you will acquire ownership of the property and will give [ ] a Scottish Secure Tenancy or a tenancy on equivalent terms, which will start on the date of settlement.

We will pay you a total subsidy of [ ]. This sum will be paid on the conclusion of missives, or 14 days before the settlement date, whichever is later. You must repay this subsidy to us (plus interest) if you do not own the property within 14 days of receiving it.

The total subsidy of [ ] includes the sum of [ ], which must be used to carry out the repairs listed in the attached Schedule. It also includes your administration allowance of £900.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

If the sale goes ahead, you must not dispose of the property or any part of it without obtaining all necessary statutory consents including (where applicable) the written consent of Scottish Ministers under Section 66 of the Housing (Scotland) Act 2001. The total subsidy of [ ] must be repaid to us in the event of the property being disposed of.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

Once the offer letters have been accepted Harper Macleod LLP, acting for [ ], will issue an offer to sell the property to your solicitor. To enable this to happen, please provide your solicitor's details below.

If you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)

Solicitor's details:

Contact name:

Firm name: *(delete if not applicable)*

Address:

Telephone number:



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Landlord letter 2 – Excess repairs (not funded by the landlord)**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owner(s):**

I refer to [ ] application to the Scottish Government's Home Owner's Support Fund. This has now been assessed and is eligible within the rules of the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to you for [ ]. This figure is based on an adjusted open market value of [ ] less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme.

If the sale takes place, you will acquire ownership of the property and will give [ ] a Scottish Secure Tenancy or a tenancy on equivalent terms, which will start on the date of settlement.

We will pay you a total subsidy of [ ]. This sum will be paid on the conclusion of missives, or 14 days before the settlement date, whichever is later. You must repay this subsidy to us (plus interest) if you do not own the property within 14 days of receiving it.

The total subsidy of [ ] includes the sum of £6,000 for repairs to the property. [ ] has been asked to agree to fund the excess repairs amount of [ ]. Assuming they agree to fund the excess repairs, you must use these sums to meet the cost of repairs listed in the attached Schedule.

The total subsidy of [ ] also includes your administration allowance of £900.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

If the sale goes ahead, you must not dispose of the property or any part of it without obtaining all necessary statutory consents including (where applicable) the written consent of Scottish Ministers under Section 66 of the Housing (Scotland) Act 2001. The total subsidy of [ ] must be repaid to us in the event of the property being disposed of.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

Once the offer letters have been accepted Harper Macleod LLP, acting for [ ], will issue an offer to sell the property to your solicitor. To enable this to happen, please provide your solicitor's details below.

If you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)

Solicitor's details:

Contact name:

Firm name: *(delete if not applicable)*

Address:

Telephone number:



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Landlord letter 3 – Excess repairs (funded by the landlord)**

Dear [ ]

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owner(s):**

I refer to [ ] application to the Scottish Government's Home Owner's Support Fund. This has now been assessed and is eligible within the rules of the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to you for [ ]. This figure is based on an adjusted open market value of [ ] less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme.

If the sale takes place, you will acquire ownership of the property and will give [ ] a Scottish Secure Tenancy or a tenancy on equivalent terms, which will start on the date of settlement.

We will pay you a total subsidy of [ ]. This sum will be paid on the conclusion of missives, or 14 days before the settlement date, whichever is later. You must repay this subsidy to us (plus interest) if you do not own the property within 14 days of receiving it.

The total subsidy of [ ] includes the sum of £6,000 for repairs to the property. You have agreed to fund the excess repairs amount of [ ]. You must use these sums to meet the cost of repairs listed in the attached Schedule.

The total subsidy of [ ] also includes your administration allowance of £900.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

If the sale goes ahead, you must not dispose of the property or any part of it without obtaining all necessary statutory consents including (where applicable) the written consent of Scottish Ministers under Section 66 of the Housing (Scotland) Act 2001. The total subsidy of [ ] must be repaid to us in the event of the property being disposed of.

If, having read this offer and the attached Schedule, you agree to the sale going ahead, please sign below accepting this offer and return it to me within 10 working days using the prepaid envelope provided. I have enclosed a copy of this letter for you to keep.

Once the offer letters have been accepted Harper Macleod LLP, acting for [ ], will issue an offer to sell the property to your solicitor. To enable this to happen, please provide your solicitor's details below.

If you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours sincerely

[ ]  
0845 279 9999

We, [ ], accept the offer on the terms and conditions explained in this letter.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)

Solicitor's details:

Contact name:

Firm name: *(delete if not applicable)*

Address:

Telephone number:



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Lender letter 1 – Loan would be fully repaid**

Dear Sirs

**Loan reference number:**

**Mortgage to Rent scheme reference number:**

**Name and address:**

I refer to [ ] application to the Scottish Government's Home Owners' Support Fund. This has now been assessed and is eligible within the rules of the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]/ less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme (*amend as appropriate*). The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

On [ ], the secured debt owed to you was/ will be [ ]. I understand that this figure will change before redemption. However, it is unlikely to change to such an extent that the debt could not be repaid in full.

We have instructed Harper Macleod LLP to obtain the titles to the property and to agree the terms of a discharge with you. In the meantime however, please confirm that you are willing to continue to allow [ ] application to proceed through the Mortgage to Rent scheme. I have enclosed a copy of this letter for you to keep.

Yours faithfully

[ ]  
0845 279 9999



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Lender letter 2 – Insufficient funds to fully repay the one secured loan**

Dear Sirs

**Loan reference number:**

**Mortgage to Rent scheme reference number:**

**Name and address:**

I refer to [ ] application to the Scottish Government's Home Owners' Support Fund. This has now been assessed and is eligible within the rules for the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]/ less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme (*amend as appropriate*). The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

Based on the figures currently available, the amount you would receive would be [ ]. [ ] remain(s) liable for the shortfall of [ ] and has/ have been asked to contact you urgently regarding a repayment proposal.

Please confirm within 10 working days that you agree to the sale proceeding in terms of this letter, and that you will deliver a discharge of your security. I have enclosed a copy of this letter for you to keep.

Yours faithfully

[ ]  
0845 279 9999

We, [ ], accept the terms and conditions explained in this letter.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Lender letter 3 – Insufficient funds to fully repay the debt due to higher ranking securities**

Dear Sirs

**Loan reference number:**  
**Mortgage to Rent scheme reference number:**  
**Name and address:**

I refer to [ ] application to the Scottish Government's Home Owners' Support Fund. This has now been assessed and is eligible within the rules for the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]/ less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme (*amend as appropriate*). The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

Due to debts ranked higher than yours, the debt owed to you will not be repaid in full. Based on the figures currently available, the amount you would receive would be [ ]. [ ] remain(s) liable for the shortfall of [ ] and has/ have been asked to contact you urgently regarding a repayment proposal.

Please confirm within 10 working days that you agree to the sale proceeding in terms of this letter, and that you will deliver a discharge of your security. I have enclosed a copy of this letter for you to keep.

Yours faithfully

[ ]  
0845 279 9999

We, [ ], accept the terms and conditions explained in this letter.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Trustee letter 1 – Secured lender(s) paid and all remaining equity to the trustee**

Dear Sirs

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owner(s):**

I refer to [ ] application to the Home Owners' Support Fund. This has now been assessed and is eligible within the rules for the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]/ less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme (*amend as appropriate*). The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

The total outstanding debt secured against the property is [ ], as detailed in the attached Schedule. It is important to remember that this figure may vary and indeed may increase before the property is sold. Based on this figure however, there would be equity of [ ] following the sale.

As [ ] has/ have entered into a Trust Deed/ been sequestrated, I would be grateful if you would agree to release the inhibition you have over the property in return for the free equity to allow the sale to go ahead. You will be notified of the exact amount of equity remaining upon completion of the sale.

When all sums due by [ ] have been paid, any remaining funds above £8,000/ £12,000 must be returned to us. This is because, under the rules of the scheme, there are certain capital limits which an applicant is allowed to keep (please see page [ ] of the attached leaflet for further information).

Please confirm within 10 working days that you agree to the sale proceeding in terms of this letter. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours faithfully

[ ]  
0845 279 9999

I, [ ], accept the offer on the terms and conditions explained in this letter. I confirm that once all sums due by [ ] have been paid any remaining funds will be returned to you immediately. I also confirm that I shall keep you informed of progress in relation to the distribution of funds.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)

## Schedule

### *Agreed repairs*

<b>Repairs</b>	<b>Cost</b>
<b>Total cost including VAT</b>	

### *Outstanding debt secured against the property*

<b>Name of lender</b>	<b>Amount</b>	<b>Date</b>
<b>Total</b>		

The outstanding debt secured against the property may change before it is repaid.

**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Trustee letter 2 – Shortfall to a secured lender therefore no money to the trustee**

Dear Sirs

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owner(s):**

I refer to [ ] application to the Scottish Government's Home Owners' Support Fund. This has now been assessed and is eligible within the rules of the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]/ less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme (*amend as appropriate*). The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

The total outstanding debt secured against the property is [ ], as detailed in the attached Schedule. It is important to remember that this figure may vary and indeed may increase before the property is sold. Based on this figure however, there would be a shortfall of [ ] following the sale due to [ ].

I understand that [ ] will rank as an unsecured creditor for any shortfall amount.

I would be grateful if you would agree to release the inhibition you have on the property to allow the sale to go ahead.

Please confirm within 10 working days that you agree to the sale proceeding in terms of this letter. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours faithfully

[ ]  
0845 279 9999

I, [ ], agree to the sale proceeding on the terms and conditions explained in this letter.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)

**Schedule**

***Agreed repairs***

<b>Repairs</b>	<b>Cost</b>
<b>Total cost including VAT</b>	

***Outstanding debt secured against the property***

<b>Name of lender</b>	<b>Amount</b>	<b>Date</b>
<b>Total</b>		

The outstanding debt secured against the property may change before it is repaid.

**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Trustee letter 3 – No secured lender(s) therefore all equity to the trustee**

Dear Sirs

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owner(s):**

I refer to [ ] application to the Scottish Government's Home Owners' Support Fund. This has now been assessed and is eligible within the rules of the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]/ less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme (*amend as appropriate*). The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

As [ ] has/ have entered into a Trust Deed/ been sequestrated, I would be grateful if you would agree to release the inhibition you have on the property in return for the total purchase price to allow the sale to go ahead.

When all sums due by [ ] have been paid, any remaining funds above £8,000/ £12,000 must be returned to us. This is because, under the rules of the scheme, there are certain capital limits which an applicant is allowed to keep (please see page [ ] of the attached leaflet for further information).

Please confirm within 10 working days that you agree to the sale proceeding in terms of this letter. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours faithfully

[ ]  
0845 279 9999

I, [ ], accept the offer on the terms and conditions explained in this letter. I confirm that once all sums due by [ ] have been paid, any remaining funds above £8,000/£12,000 will be returned to you immediately. I also confirm that I shall keep you informed of progress in relation to the distribution of funds.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)



**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Trustee letter 4 – Two people own the property, one of the owners has a trustee, therefore half of the equity is paid to the trustee**

Dear Sirs

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owners:**

I refer to [ ] application to the Scottish Government's Home Owners' Support Fund. This has now been assessed and is eligible within the rules for the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the cost of repairs required to the property, which total [ ]/ less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme (*amend as appropriate*). The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

The total outstanding debt secured against the property is [ ], as detailed in the attached Schedule. It is important to remember that this figure may vary and indeed may increase before the property is sold. Based on this figure however, there would be equity of [ ] following the sale.

As [ ] has/ have entered into a Trust Deed/ been sequestrated, I would be grateful if you would agree to release the inhibition you have on the property to allow the sale to go ahead in return for half of the free equity. You will be notified of the exact amount of equity remaining upon completion of the sale.

When all sums due by [ ] have been paid, any remaining funds must be returned to us. This is because, under the rules of the scheme, there are certain capital limits which an applicant is allowed to keep (please see page [ ] of the attached leaflet for further information). We will ensure that [ ] receive(s) any sums due under the rules of the scheme from any remaining funds returned to us.

Please confirm within 10 working days that you agree to the sale proceeding in terms of this letter. I have enclosed a copy of this letter for you to keep.

However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours faithfully

[ ]  
0845 279 9999

I, [ ], accept the offer on the terms and conditions explained in this letter. I confirm that once all sums due by [ ] have been paid any remaining funds will be returned to you immediately. I also confirm that I shall keep you informed of progress in relation to the distribution of funds.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)

## Schedule

### *Agreed repairs*

<b>Repairs</b>	<b>Cost</b>
<b>Total cost including VAT</b>	

### *Outstanding debt secured against the property*

<b>Name of lender</b>	<b>Amount</b>	<b>Date</b>
<b>Total</b>		

The outstanding debt secured against the property may change before it is repaid.

**Standard forms of letter advising all interested parties that an application has been approved (continued)**

**Trustee letter 5 – All equity paid to the trustee less the cost of excess repairs**

Dear Sirs

**Mortgage to Rent scheme reference number:**

**Property address:**

**Owner:**

I refer to [ ] application to the Scottish Government's Home Owners' Support Fund. This has now been assessed and is eligible within the rules of the Mortgage to Rent scheme. In order for the sale to proceed however, all parties with an interest must accept the sale terms. The parties involved are [ ].

If all parties agree to the sale, [ ] will sell the property to [ ] for [ ]. This figure is based on an adjusted open market value of [ ] less the sum of £6,000, which is the maximum cost of repairs that we will fund under the rules of the Mortgage to Rent scheme. In your letter of [ ], you agreed that the cost of excess repairs to the property, which amount to [ ], could be deducted from the free equity and paid to [ ] at settlement. The repairs to be carried out are detailed in the attached Schedule.

I enclose for your information a copy of First Surveyors Scotland's survey report [and a copy of their adjusted open market value (*delete if not applicable*)].

The total outstanding debt secured against the property is [ ], as detailed in the attached Schedule. It is important to remember that this figure may vary and indeed may increase before the property is sold. Based on this figure however, there would be equity of [ ] following the sale.

As [ ] has/ have entered into a Trust Deed/ been sequestrated, I would be grateful if you would agree to release the inhibition you have over the property in return for the free equity less the cost of excess repairs to allow the sale to go ahead. You will be notified of the exact amount of equity remaining upon completion of the sale.

When all sums due by [ ] have been paid, any remaining funds above £8,000/ £12,000 must be returned to us. This is because, under the rules of the scheme, there are certain capital limits which an applicant is allowed to keep (please see page [ ] of the attached leaflet for further information).

Please confirm within 10 working days that you agree to the sale proceeding in terms of this letter. I have enclosed a copy of this letter for you to keep. However, if you wish to discuss any of the above meantime, please contact [ ] on the number below.

Yours faithfully

[ ]  
0845 279 9999

I, [ ], accept the offer on the terms and conditions explained in this letter. I confirm that once all sums due by [ ] have been paid, any remaining funds above £8,000/£12,000 will be returned to you immediately. I also confirm that I shall keep you informed of progress in relation to the distribution of funds.

\_\_\_\_\_ (Authorised signatory)

\_\_\_\_\_ (Date)

## Schedule

### *Agreed repairs*

<b>Repairs</b>	<b>Cost</b>
<b>Total cost including VAT</b>	

### *Outstanding debt secured against the property*

<b>Name of lender</b>	<b>Amount</b>	<b>Date</b>
<b>Total</b>		

The outstanding debt secured against the property may change before it is repaid.

## **Part three: Mortgage to Shared Equity**

### **Section one**

#### **Detailed assessment of applications**

1.1 The detailed assessment of applications to the Mortgage to Shared Equity scheme involves calculating the level of equity stake that Scottish Ministers need to take in the property to reduce the level of debt secured against it to a manageable level.

#### **Calculating the level of equity stake**

1.2 The owners' independent money adviser (Part one, Section two) will meet with the owners once more to consider their financial situation. The adviser will undertake a further assessment of the owners' income and expenditure commitments in order to calculate the level of equity stake that Scottish Ministers would need to take in the property.

#### **Eligible applications**

1.3 If the owners' money adviser concludes that the owners could afford to take part in the Mortgage to Shared Equity scheme, they will notify the Scottish Government. In particular, the owners' money adviser will provide the Scottish Government with details of:

- the level of equity stake that Scottish Ministers would need to take in the property in order to reduce the owners' debt to a manageable level;
- the reduced payments that owners would be making to their secured lender(s);
- the loan account(s) that is to be reduced; and
- the remaining term(s) of the loan account(s) that is to be reduced.

1.4 Following receipt of the above information, the Scottish Government will check that the proposed amount of equity that Scottish Ministers would need to take in the property is reasonable. If this is considered to be the case, the Scottish Government will write to the owners of the property using the style of letter shown in Annexe A. If the owners confirm they wish to proceed in terms of the letter, the Scottish Government will instruct its solicitor to:

- provide the owner's solicitor with the Shared Equity Agreement, Standard Security and Ranking Agreement in order to enable them to discuss the terms with the owners (see Annexe B); and
- obtain the titles and carry out conveyancing due diligence in relation to the property in accordance with the standing instructions for use in shared equity transactions ('standing instructions').

1.5 Provided matters are in order and all documentation has been duly signed completion will take place within the deadlines set out in Section two. Completion will take place when the Scottish Government's solicitors forward a certificate in terms of the standing instructions to the Scottish Government who will then pay the agreed equity stake to the owner's secured lender(s).

### **Ineligible applications**

1.6 If the owners' money adviser or the Scottish Government conclude that the owners' financial circumstances are such that they would be unable to sustain home ownership, the Scottish Government will write to the owners to advise them that it would be prepared to consider their application under the Mortgage to Rent scheme.

### **Worked example**

1.7 A worked example illustrating how the Mortgage to Shared Equity scheme operates can be found in Annexe C.

## Part three: Mortgage to Shared Equity

### Section two

#### Target timescales

2.1 Considerable importance is attached to turning applications around quickly and minimising the effect that the process has on the arrears situation and personal circumstances of the household. **Target** timescales for each stage of a fully completed Mortgage to Shared Equity application are as follows:

<b>Stage</b>	<b>Timescale</b>	<b>Responsibility</b>
Initial assessment	5 weeks	Scottish Government Participating surveyor Participating solicitor Secured lenders Inhibitors
Assessment of financial situation	2 weeks	Owner's money adviser
Financial assessment check	1 week	Scottish Government
Preparation of standard form of letter	1 week	Scottish Government
Acceptance of standard form of letter	2 weeks	Owner(s)
Formal completion	4 weeks	Scottish Government Participating solicitor

## Part three: Mortgage to Shared Equity

### Section three

#### Reducing and realising Scottish Ministers' equity stake

3.1 An owner will be expected to redeem Scottish Ministers' equity stake within 10 years if they are in a position to do so. An owner must however wait a minimum period of two years after Scottish Ministers' have taken an equity stake in their property before they can reduce the stake. After two years, an owner can decrease Scottish Ministers' equity stake by as much as they would like and as often as they would like.

3.2 An owner can decrease Scottish Ministers' equity stake regardless of whether the open market value of their property has increased or decreased. The open market value of the property will be determined by the District Valuer or such other professionally qualified valuer as agreed between Scottish Ministers and an owner. The valuation will reflect any improvements carried out to the property by an owner but will disregard matters such as lack of vacant possession, any breach of an owner's obligations, any security or other encumbrance, and any reduction in value caused by adaptations carried out to meet the needs of a disabled person.

3.3 The procedure to be followed when an owner wants to decrease Scottish Ministers' equity stake can be summarised as follows:

- the owner must write to Scottish Ministers' advising that they wish to reduce their equity stake to a certain level, and put Scottish Ministers in funds so that Scottish Ministers can instruct a valuation of the property;
- Scottish Ministers will write to the owner with details of the valuation within seven days of receiving it;
- the owner has three months to reduce Scottish Ministers' equity stake from the date they receive notification from Scottish Ministers' of the valuer's valuation by making payment of the relevant amount to Scottish Ministers; and
- as soon as the equity stake reduction takes place the existing legal documentation will be amended by the Scottish Government's solicitors to reflect the position.

3.4 There will be no means testing of owners following the initial purchase. Owners will therefore be recommended to take independent money and legal advice each time they wish to decrease Scottish Ministers' equity stake in their property.

3.5 An owner will be responsible for meeting **all** costs (including for example the legal costs incurred by Scottish Ministers) when decreasing Scottish Ministers' equity stake.

3.6 Annexe D illustrates how a financial reconciliation would work when an owner decreases Scottish Ministers' equity stake from 40 per cent to 20 per cent, and then from 20 per cent to zero.

### **Realising Scottish Ministers' equity stake**

3.7 An owner will be responsible for meeting all costs (including those incurred by the Scottish Government) when selling the property on the open market<sup>19</sup> and/ or otherwise realising Scottish Ministers' equity stake.

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<sup>19</sup> When selling the property on the open market, an owner has a legal duty to obtain a Home Report and to provide, upon request, copies of the Home Report to prospective purchasers within nine days of any such request being made.

## **Part three: Mortgage to Shared Equity**

### **Annexe A**

**Standard form of letter advising applicants that their application has been approved**

Dear [ ]

**Mortgage to Shared Equity scheme – Reference number [ ]**

Thank you for returning your completed application to the Scottish Government's Home Owners' Support Fund.

We are pleased to tell you that your application has been approved for the Mortgage to Shared Equity scheme on the following basis:

**Details of property: [ ]**

**Details of shared equity proportion: [ ]**

**Details of amount to be paid: [ ]**

**Reduced payments to be made to secured creditors: [ ]**

**Payment arrangements: [ ]**

#### **Terms of approval**

The detailed terms and conditions of approval will be set out in formal legal documentation which has been/ will be forwarded to your solicitor. Please note that until such time as duly signed documentation is delivered no legally binding arrangements will be deemed to have been entered into between us.

You should ensure that your solicitor advises you on the implications of the scheme and the terms of all documentation and that you are satisfied with all of these before agreeing to enter into any legal commitments.

The formal legal documentation will include the granting of a mortgage (or 'standard security' as it is known in Scotland) to secure the rights of the Scottish Government under the scheme. **YOU SHOULD CHECK THAT THIS MORTGAGE WILL MEET YOUR NEEDS IF YOU WANT TO MOVE OR SELL YOUR HOME, OR IF YOU WANT YOUR FAMILY TO INHERIT IT.**

Without prejudice to the advice which your solicitor will provide in relation to the legal documentation you may also wish to note at this stage that in terms of the documentation (and in terms of the Mortgage to Shared Equity scheme rules) you are prohibited from taking out any further loans secured over the property without our consent. You will also require to (a) keep the entire property in a good state of repair – this may include common maintenance or service charges and (b) insure the property. The documentation also sets out the procedures that would apply if you wished to reduce the Scottish Government's equity stake – or sell your property – at some point in the future.

You will also require to occupy the property as your only residence and will not be allowed to let or sub-let the property or any part of it without the Scottish Ministers' prior written consent which, if granted, will be time-limited. This would allow you to retain the property while working away from home, without compromising the principles of the Mortgage to Shared Equity scheme. In either case, no rental proceeds will be due to the Scottish Ministers.

Please ensure that either you or your legal or money adviser now writes to *[insert details of lender(s)]* asking them to confirm that they are satisfied to proceed on the basis set out in this letter and provide us with a copy of their response.

Please note that should this application proceed to a successful conclusion you will not be allowed to make another application to the Mortgage to Shared Equity scheme if you experience financial difficulties in the future. You would however be able to apply to the Mortgage to Rent scheme if, after taking independent advice, you considered that this was the most appropriate option.

If you wish to proceed further, please complete the section below and return this letter to us. Please note that if you do not wish to proceed with your application to the Mortgage to Shared Equity scheme, we would be willing to consider your application under the Mortgage to Rent scheme.

Yours sincerely

Place/ Date

I acknowledge receipt of this letter and confirm that I would like you to proceed as indicated.

Yours faithfully

## **Part three: Mortgage to Shared Equity**

### **Annexe B**

#### **Standard legal documentation**

**AGREEMENT**

**between**

**THE SCOTTISH MINISTERS**

**and**

**# [Home owner]**

**MORTGAGE TO SHARED EQUITY**

<b>CLAUSES</b>		<b>PAGE</b>
1.	<b>Definitions</b>	<b>#</b>
2.	<b>Obligation to Pay</b>	<b>#</b>
3.	<b>Tranching Up</b>	<b>#</b>
4.	<b>Expenses</b>	<b>#</b>
5.	<b>Certificates and Determinations</b>	<b>#</b>
6.	<b>Interest and Losses</b>	<b>#</b>
7.	<b>Land Tenure Reform (Scotland) Act 1974</b>	<b>#</b>
8.	<b>Transfer</b>	<b>#</b>
9.	<b>Notices</b>	<b>#</b>
10.	<b>Separate Provisions</b>	<b>#</b>
11.	<b>Governing Law</b>	<b>#</b>
12.	<b>Consent to Registration</b>	<b>#</b>

## MINUTE OF AGREEMENT

between

**THE SCOTTISH MINISTERS** (“Scottish Ministers”) **ON THE ONE PART**

and

# residing at # (hereinafter referred to as the “Shared Equity Owner”) **ON THE OTHER PART**

**WHEREAS** Scottish Ministers have agreed to provide the sum of # (£#) (being [#] per cent of the current value of the Property as agreed between the Parties) on condition that the Shared Equity Owner enters into this Agreement with Scottish Ministers and grants a standard security over the Property for the Shared Equity Owner’s obligations hereunder; **NOW THEREFORE** the Parties have agreed and do hereby agree as follows:

### 1. Definitions

1. In this Minute of Agreement where the context so admits:

1.1 the following words and phrases shall have the following meanings:

“Actual Open Market Value”	means the highest sum offered by a third party in an Open Market Sale;
“Agreement”	means this agreement;
“Date of Signing this Agreement”	means the date of signing this Agreement;
“Deemed Open Market Value”	means the open market value of the Property as determined by the Valuer making the Open Market Value Assumptions and having regard to

	such other matters as he may in his professional judgement deem appropriate;
“Encumbrance”	means a standard security; any inhibition, adjudication or other matter which may competently be registered in the personal registers; or any other encumbrance which may affect the Property including without prejudice any order relating to property transfer or confiscation;
“Home Report”	means the documents referred to in the Housing (Scotland) Act 2006 (Prescribed Documents) Regulations 2008 being survey report, information on energy efficiency and property questionnaire in the form set out in the schedules to those regulations
“New Proportion”	has the meaning ascribed to it in clause 3;
“New Security”	means any standard security over the Property or any part thereof other than (1) the Standard Security and (2) any standard security specifically referred to in the Ranking Agreement;
“Open Market Conditions”	means the following conditions (i) the Shared Equity Owner has taken all reasonable steps to ensure that the price at which the Property is to be sold is the best that can be reasonably obtained which will include, without prejudice, being satisfied with the nature and level of advertising, the

	Home Report, the marketing of the Property and the terms of sale; and (ii) the sum offered by the third party has not been adversely affected by any of the Open Market Value Assumptions not being the case in fact;
“Open Market Sale”	a sale of the whole of the Property in the open market to a third party in circumstances where Scottish Ministers, acting reasonably, are and remain satisfied that the Open Market Conditions have been met;
“Open Market Value Assumptions”	means the following assumptions: <ol style="list-style-type: none"> <li>1. that the Property is being sold by a willing seller to a willing purchaser in the open market on an arm’s length basis;</li> <li>2. that vacant possession of the Property is available;</li> <li>3. that the Shared Equity Owner has duly complied with, performed and discharged all of the obligations incumbent upon him in terms of this Agreement;</li> <li>4. that the Shared Equity Owner has complied with the obligations incumbent upon him in terms of the Standard Security;</li> </ol>

	<p>5. that there is no Encumbrance affecting the Property;</p> <p>6. that any increase in value arising from any additions or improvements carried out to the Property is to be reflected in the open market value; and</p> <p>7. that any diminution in value arising from adaptations which have been carried out to meet the needs of a disabled person is to be disregarded from the open market value;</p>
<p>“Parties”</p>	<p>means the parties to this Agreement;</p>
<p>“Payment Event”</p>	<p>means any one or more of the following events:</p> <p>(a) an Open Market Sale other than to a Spouse;</p> <p>(b) any transfer or transmission of the Property or part of the Property whether by sale or gift or succession or in any other way to a third party other than a Spouse which is not an Open Market Sale;</p> <p>(c) the failure on the part of a Spouse to assume the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers within six months of the transfer or</p>

	<p>transmission of the Property or part of the Property to the Spouse whether by sale or gift or succession or in any other way;</p> <p>(d) (If the Shared Equity Owner is one individual and dies without a surviving Spouse or the Property does not pass to any such surviving Spouse as aftermentioned) the death of the Shared Equity Owner;</p> <p>(e) (If the Shared Equity Owner comprises more than one person) the death of the survivor of such persons;</p> <p>(f) The Shared Equity Owner or any Spouse of the Shared Equity Owner ceasing to use the Property as his only place of residence or renting the Property or allowing it to be occupied by a third party without the prior written consent of Scottish Ministers;</p> <p>(g) The Shared Equity Owner or any Spouse of the Shared Equity Owner granting a New Security without first obtaining the written consent of Scottish Ministers;</p> <p>(h) Any security holders calling up their security or the security holders or any other party exercising any</p>
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	<p>other process of law which would affect the Property;</p> <p>(i) Any default under the Standard Security;</p> <p>(j) The expiry of a period of 10 years from the date of execution of this Agreement by the Shared Equity Owner; or</p> <p>(k) It is established to the reasonable satisfaction of Scottish Ministers that the Shared Equity Owner has provided or permitted the provision of false or misleading information to Scottish Ministers or their agents in connection with the granting or transmission of this Agreement;</p>
“Property”	means the whole of the property at [here insert the postal address];
“Ranking Agreement”	means the agreement regulating the ranking of standard securities between Scottish Ministers, the Shared Equity Owner and [insert lender details];
“Scottish Ministers’ Proportion”	either [# %] or, if the terms of clause 3 have been implemented in full (including without prejudice all sums due to Scottish Ministers thereunder having been paid), the New Proportion;
“Spouse”	means a person who lives with the Shared Equity Owner and is the

	husband or the wife, or lives with the Shared Equity Owner as the husband or wife; or lives with the Shared Equity Owner in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex; or is the civil partner of the Shared Equity Owner in terms of the Civil Partnership Act 2004;
“Standard Security”	means the standard security by the Shared Equity Owner in favour of Scottish Ministers for the Shared Equity Owner’s obligations in terms of this Agreement; and
“Valuer”	means the District Valuer of HM Revenue and Customs for the district in which the Property is situated or if otherwise agreed between the Parties such other professionally qualified valuer as Scottish Ministers and the Shared Equity Owner may agree;

and derivative expressions of any defined term shall be construed accordingly.

1.2 References to:-

1.2.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;

1.2.2 “including” shall not be construed as limiting the generality of the words preceding it;

- 1.2.3 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 1.2.4 this Agreement and to any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- 1.2.5 any person are to be construed to include references to a corporation, firm, owner, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- 1.2.6 any person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect;
- 1.2.7 a clause means a clause of this Agreement;
- 1.2.8 clause headings are for ease of reference only and shall not affect the interpretation of this Agreement;
- 1.2.9 Scottish Ministers includes agents or other persons authorised to act on behalf of Scottish Ministers; and
- 1.2.10 the consent of Scottish Ministers shall be a reference to their prior written consent.
- 1.3 For the avoidance of doubt, this Agreement supersedes any previous agreement, whether written or oral, expressed or implied, between the Parties to it (or any of them) in relation to the subject matter of this Agreement.

- 1.4 Obligations undertaken by more than one person shall be undertaken by each jointly and severally.
- 1.5 Unless otherwise stated, any consent, approval or other determination of Scottish Ministers whether in this Agreement, the Standard Security or the Ranking Agreement shall not be unreasonably withheld or delayed nor given subject to unreasonable conditions.

## **2. Obligation to Pay**

Subject always to the terms of clause 2.7:

- 2.1 If the Shared Equity Owner proposes to transfer their interest in the Property, the Shared Equity Owner shall (1) notify Scottish Ministers as soon as reasonably possible; (2) provide them with such information about the proposed sale as Scottish Ministers may reasonably require; and (3) use all reasonable endeavours to ensure that the Open Market Conditions apply including without prejudice ensuring that all duties of care under the relevant Home Report are extended to Scottish Ministers on terms which Scottish Ministers consider to be satisfactory.
- 2.2 If the proposed transfer is an Open Market Sale the Shared Equity Owner shall pay to Scottish Ministers, Scottish Ministers' Proportion of the Actual Open Market Value on or before the date of settlement of the Open Market Sale.
- 2.3 If the proposed transfer is not an Open Market Sale it shall only take place with the consent of Scottish Ministers which consent shall not be unreasonably withheld or delayed but if granted shall be given subject to such conditions as Scottish Ministers may reasonably require in order to ensure that they receive payment of Scottish Ministers' Proportion of the Deemed Open Market Value.

- 2.4.1 Subject to the terms of clause 2.4.2, upon the occurrence of a Payment Event other than in the circumstances set out in clauses 2.1 – 2.3 inclusive, Scottish Ministers shall be entitled to instruct the Valuer in terms of this Agreement to determine the Deemed Open Market Value as at a date (“Valuation Date”) which is either on, or within a reasonable period of, the date when that Payment Event occurred.
- 2.4.2 If the Payment Event is a default which is capable of remedy, Scottish Ministers shall not take any action under clause 2.4.1 unless (a) they have previously delivered to the Shared Equity Owner a notice which specifies in reasonable detail the nature of the default and a period (“Remediation Period”) – which shall be not less than 28 days – in which to remedy the same and (b) the Remediation Period has elapsed and the default has not been remedied to the reasonable satisfaction of Scottish Ministers.
- 2.5 Once the Deemed Open Market Value has been determined in accordance with this Agreement Scottish Ministers shall be entitled at any time thereafter to serve notice (“Payment Notice”) upon the Shared Equity Owner requiring him to make payment of Scottish Ministers’ Proportion of the Deemed Open Market Value.
- 2.6 In the event that a Payment Notice is served the Shared Equity Owner shall within seven days of receipt of the Payment Notice make payment to Scottish Ministers of Scottish Ministers’ Proportion of the Deemed Open Market Value.
- 2.6.1 For the avoidance of doubt the terms of clause 2 shall not apply in relation to any transfer or transmission to a Spouse who assumes the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers within six months of such transfer or transmission all as set out in sub paragraph (c) of the definition of ‘Payment Event’.

### **3. Tranching Up**

- 3.1 At any time after the second anniversary of the Date of Signing this Agreement the Shared Equity Owner will be entitled to reduce Scottish Ministers' Proportion in terms of this clause 3 provided always that:
- 3.1.1 the Shared Equity Owner shall only be entitled to exercise his right to reduce Scottish Ministers' Proportion in terms of this clause 3.1 if he shall have complied with, performed and discharged all of the obligations incumbent upon him in terms of this Agreement and the Standard Security.
- 3.2 The Shared Equity Owner shall serve on Scottish Ministers a notice ("Reduction Notice") in writing specifying the amount expressed as a percentage ("New Proportion") to which Scottish Ministers' Proportion is to be reduced and requiring Scottish Ministers to instruct the Valuer to determine the Deemed Open Market Value as at the date of service of the Reduction Notice and Scottish Ministers shall notify the Shared Equity Owner of the amount thereof in writing within seven days of the said determination by the Valuer.
- 3.3 Provided payment by the Shared Equity Owner of the amount necessary to reduce Scottish Ministers' Proportion in terms of clause 3.1 is effected within three months of such notification by Scottish Ministers, the Shared Equity Owner may reduce Scottish Ministers' Proportion to the New Proportion. The amount due to Scottish Ministers by the Shared Equity Owner in terms of this clause 3.3 shall be calculated in accordance with the following formula:

A x B

where:

A = the difference between Scottish Ministers' Proportion at the date of the Reduction Notice and the New Proportion; and

B = the Deemed Open Market Value.

As an example if the Deemed Open Market Value of the Property at the date of the Reduction Notice was £120,000; Scottish Ministers' Proportion at the Date of the Reduction Notice was 30% and the New Proportion was 20%; the amount due to Scottish Ministers would be £12,000 being 10% (i.e. 30% - 20%) x £120,000.

- 3.4 The reasonable costs of any such determination by the Valuer shall be paid on demand by the Shared Equity Owner to Scottish Ministers.
- 3.5 The Valuer shall be deemed to be acting as an expert and not as an arbiter and his decision as to the Deemed Open Market Value shall be final and binding on the Parties.
- 3.6 Upon payment by the Shared Equity Owner the Shared Equity Owner and Scottish Ministers shall forthwith execute a memorandum detailing the New Proportion.

#### **4. Expenses**

- 4.1 Scottish Ministers shall be liable for all expenses incurred in connection with (a) registering the Standard Security and the Ranking Agreement in the Land Register (b) registering this Agreement in the Books of Council and Session and of obtaining two extracts (c) obtaining all searches (including property enquiry certificate and where appropriate Coal Report) in relation to the Property and (d) their own legal expenses in connection with the preparation and completion of this Agreement, the Standard Security and the Ranking Agreement.

- 4.2 Subject to the terms of clause 4.1, the Shared Equity Owner will be liable for their own legal expenses in connection with the preparation and completion of this Agreement, the Standard Security and the Ranking Agreement together with any costs incurred in satisfying Scottish Ministers as to the adequacy of the Property and its title in terms of the Lender's Handbook produced from time to time by the Council of Mortgage Lenders.
- 4.3 The Shared Equity Owner shall pay on demand to Scottish Ministers on a full indemnity basis all reasonable costs and expenses (including but not limited to legal, valuation, registration and out-of-pocket expenses) properly incurred by Scottish Ministers in connection with any actual, proposed or attempted amendment, exercise, enforcement, discharge, extension, variation, waiver, preservation of any rights under this Agreement and/ or the Standard Security and/ or the Ranking Agreement including any application for consent and any right of pre-emption.

## **5. Certificates and Determinations**

- 5.1 A certificate signed by any duly authorised officer or employee of Scottish Ministers shall be prima facie evidence of any sums due to Scottish Ministers under this Agreement.

## **6. Interest and Losses**

- 6.1 If the Shared Equity Owner fails to pay any amount payable by him under this Agreement, Scottish Ministers may charge the Shared Equity Owner interest on the overdue amount. The Shared Equity Owner shall pay the interest immediately on demand, from the due date up to the date of actual payment, after as well as before judgment, at the rate of 2% per annum above the base lending rate (or the equivalent) of the Royal Bank of Scotland plc prevailing at the time of the written demand from the date of the written demand until payment

in full of both the sum and the interest thereon, or in the event of that ceasing to exist, such other rate equivalent to it as Scottish Ministers may specify. Such interest shall accrue on a daily basis and be compounded quarterly.

- 6.2 The Shared Equity Owner shall indemnify and keep indemnified Scottish Ministers against all losses, liabilities, costs and expenses – including without prejudice any depletion of value of the Property – reasonably incurred by Scottish Ministers as a result of any breach by the Shared Equity Owner of any terms of this Agreement, the Standard Security and/ or the Ranking Agreement.

## **7. Land Tenure Reform (Scotland) Act 1974**

- 7.1 Subject always to the provisions of section 11 of the Land Tenure Reform (Scotland) Act 1974 the Shared Equity Owner shall not be entitled to redeem the Standard Security or any standard security granted in substitution therefor.

## **8. Transfer**

- 8.1 The Shared Equity Owner shall not at any time assign, transfer or novate any of its rights and/ or obligations under this Agreement save to a Spouse who has entered into an agreement to assume the obligations of the Shared Equity Owner in terms satisfactory to Scottish Ministers.
- 8.2 Scottish Ministers may at any time assign, transfer or novate any of its rights and/ or obligations under this Agreement to any person.
- 8.3 Scottish Ministers may disclose to any person with whom it is proposing to enter, or has entered into, any kind of transfer, participation or other agreement in relation to this Agreement:-

- a copy of this Agreement; and
- any information which Scottish Ministers have acquired in connection with this Agreement.

## **9. Notices**

9.1 Any notice to Scottish Ministers shall be addressed to:-

#

9.2 Any notice to the Shared Equity Owner shall be addressed to:-

#

## **10. Separate Provisions**

If any provision of this Agreement is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality or enforceability of any other provision.

## **11. Governing Law**

This Agreement shall be governed by and construed according to Scots law and each of the parties submits to the exclusive jurisdiction of the Scottish courts.

## **12. Consent to Registration**

The Parties consent to the registration hereof and of any such Certificate for preservation and execution. IN WITNESS WHEREOF this Agreement is executed as follows:

<p>SUBSCRIBED by the Shared Equity Owner at</p> <p>on the day of (Year-figure)</p> <p>in the presence of:-</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)</p> <p>..... (Signature)</p>
<p>SUBSCRIBED for and on behalf of Scottish Ministers by</p> <p>on the day of (Year-figure)</p> <p>in the presence of:-</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)</p> <p>Authorised signatory</p> <p>..... (Full Name)</p>

**STANDARD SECURITY**

**by**

**# [Owner]**

**in favour of**

**The Scottish Ministers**

I/ We, #, residing at # (declaring that where these presents are granted by more than one person the singular herein includes the plural and all obligations herein are undertaken jointly and severally) hereby in security of all sums, liabilities and obligations which are now or may hereafter become due by me/ us to the Scottish Ministers (hereinafter referred to as 'Scottish Ministers') by virtue of the Minute of Agreement between them and me/ us signed by me/ us on or about the date hereof and any variation thereof, GRANT a Standard Security in favour of Scottish Ministers over ALL and WHOLE [*description per Disposition*] (hereinafter referred to as the 'Property'); The Standard Conditions specified in Schedule 3 to the Conveyancing and Feudal Reform (Scotland) Act 1970 and any lawful variation thereof operative for the time being shall apply; And I/ we agree that the Standard Conditions shall be varied to the effect that:-

- (a) standard condition 1 shall be modified to the effect that it shall be an obligation on me/ us where there is an obligation to maintain the security subjects that such obligation shall be deemed to include an obligation to renew or procure the renewal of the same should this be reasonably required by Scottish Ministers;
- (b) standard conditions 3 and 4 shall be modified to the effect that it shall be an obligation on me/ us to ensure that all consents and approvals under all statutes (including all bye-laws, instruments, orders and regulations for the time being made thereunder or deriving therefrom) and the regulations and codes of practice of any governmental, local or other competent authorities affecting the Property have been obtained and are complied with at all times;

- (c) standard condition 4 shall be varied to the effect that reference to any notice or order issued or made by virtue of the Town and Country Planning (Scotland) Acts 1997 to 2006 and any subsequent amendments shall be construed as including all notices or orders of whatsoever kind made, given or issued by any authority or person which may affect the value of the Property in any way;
  
- (d) standard condition 5 shall be modified to the effect that it shall be an obligation on me/ us:-
  - (i) to maintain such insurances in relation to the Property as are normally maintained by prudent owners of similar properties;
  
  - (ii) without prejudice to the foregoing sub-paragraph (i), to effect and maintain insurance against loss or damage to the Property by fire, lightning, explosion, storm, tempest, flood, aircraft (other than hostile aircraft), landslip, subsidence, riot and civil commotion, malicious damage and such other risks as Scottish Ministers may from time to time require and that with sound and reputable insurers and I/ we shall procure that the interest of Scottish Ministers as a heritable creditor is noted on the relevant policy or policies of insurance and that in such form and manner as Scottish Ministers may specify from time to time;

- (iii) to ensure that each such insurance policy will not as against Scottish Ministers be rendered void, voidable or unenforceable by reason of any act, omission, breach of warranty or non-disclosure by me/ us or any occupier of the Property. Scottish Ministers shall have full power to settle and adjust with the insurers all questions with respect to claims under each such policy. I/ We shall also ensure that all monies payable by the insurers under each such policy will be paid to the good discharge therefor and that the insurers will not permit the policy to lapse or attempt to void the same without giving at least 28 days notice to Scottish Ministers;
- (iv) not to insure the Property or any part thereof otherwise than in accordance with the foregoing obligation and, if I/ we shall at any time effect any insurance in breach of such obligation, to hold all monies received under any such last-mentioned insurance as trustee for Scottish Ministers and, on demand, to pay the same to Scottish Ministers to be applied as if the same arose under a policy effected in terms hereof; and
- (v) the insurance to be effected in terms of Standard Condition 5(a) shall provide index linked cover to the extent of (i) full reinstatement value or (ii) the full price at which the Property would be sold in the open market (a certificate from Scottish Ministers being conclusive in that regard) or (iii) the market value from time to time whichever is the highest;

for the purposes of this Standard Security, the terms 'Scottish Ministers' and 'I/ we' herein contained shall be deemed to be references to the terms 'creditor' and 'debtor' respectively contained in the said standard conditions which shall be construed accordingly; And I/ we grant warrandice excepting therefrom standard security by me/ us in favour of [##] dated *[insert date or state on or about the date hereof]* And I/ we consent to registration for execution: IN WITNESS WHEREOF

**RANKING AGREEMENT**

**among**

**# [Bank/ Building Society]**

**and**

**The Scottish Ministers**

**and**

**# [Owner]**

## **CLAUSES**

<b>1.</b>	<b>Ranking of Securities</b>	<b>#</b>
<b>2.</b>	<b>Security to be Continuing</b>	<b>#</b>
<b>3.</b>	<b>Agreement</b>	<b>#</b>
<b>4.</b>	<b>Negative Pledge</b>	<b>#</b>
<b>5.</b>	<b>Enforcement</b>	<b>#</b>
<b>6.</b>	<b>Authority to Release Information</b>	<b>#</b>
<b>7.</b>	<b>Consent</b>	<b>#</b>
<b>8.</b>	<b>Variation</b>	<b>#</b>
<b>9.</b>	<b>Transfers</b>	<b>#</b>
<b>10.</b>	<b>Miscellaneous</b>	<b>#</b>
<b>11.</b>	<b>Notices</b>	<b>#</b>
<b>12.</b>	<b>Definitions</b>	<b>#</b>
<b>13.</b>	<b>Other Security</b>	<b>#</b>
<b>14.</b>	<b>Separate Provisions</b>	<b>#</b>
<b>15.</b>	<b>Governing Law</b>	<b>#</b>
<b>16.</b>	<b>Consent to Registration</b>	<b>#</b>

## RANKING AGREEMENT

This RANKING AGREEMENT is made amongst:-

- (1) # (the '**Primary Lender**');
- (2) The Scottish Ministers ('**Scottish Ministers**'); and
- (3) # (the '**Owner**').

**Definitions are given in Clause 12.**

### **WHEREAS**

- (A) The Owner has granted or is about to grant in favour of the Primary Lender a fixed security over the Property;
- (B) The Owner has granted or is about to grant in favour of Scottish Ministers a fixed security over the Property;
- (C) The Primary Lender and Scottish Ministers wish to regulate the ranking of the Securities; and
- (D) The Owner has agreed to acknowledge the terms of this Agreement.

### **IT IS AGREED AS FOLLOWS:**

#### **1. Ranking of Securities**

- 1.1 The Primary Lender, Scottish Ministers and the Owner agree that the sums secured or to be secured by the Primary Lender Fixed Security and the Postponed Fixed Security shall rank in the following order of priority:

- 1.1.1 the Primary Lender Fixed Security to the extent of the Primary Lender Priority Debt; then
  - 1.1.2 the Postponed Fixed Security to the extent of the Postponed Debt; then
  - 1.1.3 the Primary Lender Fixed Security to the extent of the balance (if any) of the Primary Lender Debt.
- 1.2 The ranking and priority set out in Clause 1.1 shall take effect notwithstanding any of the following:-
- 1.2.1 the nature of the securities created by the Primary Lender Fixed Security and the Postponed Fixed Security and the dates of execution and registration of them;
  - 1.2.2 any provision contained in any of the Securities;
  - 1.2.3 the date or dates on which moneys have been or may be advanced or become due, owing or payable under the Primary Lender Fixed Security and the Postponed Fixed Security respectively;
  - 1.2.4 any fluctuation from time to time in the amounts secured by the Primary Lender Fixed Security or the Postponed Fixed Security including any reduction of those amounts to nil;
  - 1.2.5 the existence of any credit balance on any current or other account of the Owner with either the Primary Lender or Scottish Ministers;

- 1.2.6 the appointment of a Trustee in bankruptcy to the Owner, his sequestration, his apparent insolvency and/ or the appointment of a judicial factor to all or any part of his assets in respect of the Owner or over all or any part of the assets;
- 1.2.7 the sale or other disposal of any land or buildings or any interest in any land or buildings prior to enforcement;
- 1.2.8 any present or future mortgage or other charge granted by the Owner to either the Primary Lender or Scottish Ministers (other than the Securities) (unless otherwise agreed in writing by the Primary Lender or Scottish Ministers); and
- 1.2.9 the provisions of Section 13 of the Conveyancing and Feudal Reform (Scotland) Act 1970.

## **2. Security to be Continuing**

The Securities shall rank as provided in this Agreement as continuing securities for repayment of the amounts owing to each of the Primary Lender and Scottish Ministers from time to time by the Owner or by any person or Owner whose obligations to the Primary Lender or Scottish Ministers are guaranteed by the Owner.

## **3. Agreement**

If a Trustee in bankruptcy or a judicial factor regards this Agreement as failing to bind him in the distribution of the proceeds of sale of the assets of the Owner (and in as far as the refusal of the Trustee in bankruptcy or the judicial factor causes prejudice to the Primary Lender or Scottish Ministers), the Primary Lender and Scottish Ministers will compensate each other to the extent to which it has benefited as a result of this refusal.

#### **4. Negative Pledge**

The Owner shall not grant any further fixed charges over the Property without the written consent of the Primary Lender and Scottish Ministers.

#### **5. Enforcement**

If either the Primary Lender or Scottish Ministers wishes to exercise its power of sale over the Property or to appoint a Trustee in bankruptcy to the Owner's assets, the Primary Lender and Scottish Ministers shall consult together with a view to agreeing upon either the terms of such sale or upon a suitable person to be appointed as Trustee in bankruptcy provided always that this agreement to consult will not prejudice the right of the Primary Lender or Scottish Ministers to take action to sell the Property under its powers of sale without prior consultation in case of need. If the Primary Lender or Scottish Ministers takes any such action or appoints a Trustee in bankruptcy without consultation it shall immediately advise the other that it has done so.

#### **6. Authority to Release Information**

6.1 During the continuance of each of the Primary Lender Fixed Security and the Postponed Fixed Security, the Primary Lender and Scottish Ministers may disclose to each other information concerning the Owner and its affairs in such manner and to such extent as the Primary Lender and Scottish Ministers may wish and the Owner consents to such disclosure.

6.2 The Primary Lender agrees to give notice promptly to Scottish Ministers upon increasing the limit of any of the facilities for the time being granted by it to the Owner or upon granting it new facilities.

## **7. Consent**

The Primary Lender and Scottish Ministers consent to the grant by the Owner of the Securities and each acknowledge the right of the other to production and delivery of copies of the Securities.

## **8. Variation**

The Primary Lender Fixed Security and the Postponed Fixed Security are varied to the extent specified in this Agreement and this Agreement shall be construed and receive effect as a variation within the meaning of Section 16 of the Conveyancing & Feudal Reform (Scotland) Act 1970.

## **9. Transfers**

The Primary Lender shall not assign or transfer the benefit of the Primary Lender Fixed Security and Scottish Ministers shall not assign or transfer the benefit of any of the Postponed Fixed Security unless the assignee or transferee first agrees in writing with the Primary Lender and/ or Scottish Ministers, as the case may be, to be bound by the provisions of this Agreement.

## **10. Miscellaneous**

Unless and until the Primary Lender Fixed Security is discharged, Scottish Ministers:-

10.1 agree that any obligation under the Postponed Fixed Security to deposit deeds and documents of title, and all policies of insurance with Scottish Ministers shall be deemed satisfied and complied with if those are deposited with the Primary Lender; and

10.2 agree that the proceeds of any insurance policy in respect of the Property shall, notwithstanding any endorsement or notation on any

such policy to the contrary, prior to enforcement of a security shall be used by the Owner in repair and reinstatement or replacement of the Property. The Owner acknowledges by its execution of this Agreement that it has no right, title or interest to enforce this sub-clause for its own benefit.

## **11. Notices**

11.1 All notices or other communications to be made or given under this Agreement shall be in writing and shall be by first-class pre-paid post or by fax.

11.2 Receipt shall be deemed to have occurred forty-eight hours after posting (unless hand-delivered and then at the time of delivery) and if by fax when sent provided a transmission report is received.

11.3 Any notice to the Primary Lender shall be addressed to:-  
#

11.4 Any notice to Scottish Ministers shall be addressed to:-  
#

11.5 Any notice to the Owner shall be addressed to:-  
#

## **12. Definitions**

In the interpretation of this Agreement:-

12.1 'the Primary Lender Debt' means all or any monies and liabilities which shall from time to time (and whether on or at any time after demand) be due, owing or incurred in whatsoever manner to the Primary Lender by the Owner, whether actually or contingently, solely or jointly and

whether as principal or surety and whether or not the Primary Lender shall have been an original party to the relevant transaction, and including interest, discount, commission and other lawful charges or expenses which the Primary Lender may in the course of its business charge or incur in respect of any of those matters or for keeping the Owner's account, and so that interest shall be computed and compounded according to the usual Primary Lender rates and practice as well after as before any demand made or decree obtained;

- 12.2 'the Primary Lender Fixed Security' means the standard security over the Property granted by the Owner in favour of the Primary Lender dated # and registered in the Land Register under Title Number # in security for the Primary Lender Debt;
- 12.3 'the Primary Lender Priority Debt' means the Primary Lender's Debt not exceeding £# (or such greater amount, if any, as shall be agreed in writing between the Primary Lender and Scottish Ministers) together with (a) outstanding interest on that amount for a period of one year and (b) all outstanding commission, charges, fees, costs and expenses arising or incurred in connection with it;
- 12.4 'Postponed Debt' means all sums due and to become due to Scottish Ministers by the Owner whether as principal debtor, co-obligant, guarantor, surety or otherwise (including all present, future or contingent obligations owed to Scottish Ministers, whether such obligations exist now or arise in the future) together with interest and charges, interest on them and all commission, charges, fees, costs and expenses arising or incurred in connection with those sums;
- 12.5 'Postponed Fixed Security' means the standard security over the Property granted by the Owner in favour of Scottish Ministers dated on or around the date hereof and about to be registered in the Land Register under Title Number # in security for the Postponed Debt;

12.6 'Property' means ALL and WHOLE the subjects known as and forming #, being the whole subjects registered in the Land Register of Scotland under Title Number #;

12.7 'Securities' means the Primary Lender Fixed Security and the Postponed Fixed Security;

12.8 'enforce' (and all derivations from it) means the taking of any of the following actions:-

- (1) the exercising a power of sale or otherwise utilising the rights given to a creditor under any of the Securities;
- (2) the suing for payment of any the Primary Lender Debt or the Postponed Debt;
- (3) the petitioning for a sequestration order;
- (4) the granting of a voluntary Trust Deed or the making of a composition contract or arrangement with creditors; or
- (5) the exercising of any rights of set-off, retention combination of accounts or similar right in respect of the Primary Lender Debt or the Postponed Debt;

12.9 Derivative expressions of any defined term shall be construed accordingly;

12.10 References to:-

- 12.10.1 statutes, statutory provisions and other legislation shall include all amendments, substitutions, modifications and re-enactments for the time being in force;

- 12.10.2 'including' shall not be construed as limiting the generality of the words preceding it;
- 12.10.3 words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders;
- 12.10.4 this Agreement and to any provisions of it or to any other document referred to in this Agreement shall be construed as references to it in force for the time being as amended, varied, supplemented, restated, substituted or novated from time to time;
- 12.10.5 any person are to be construed to include references to a corporation, firm, owner, partnership, joint venture, unincorporated body of persons, individual or any state or agency of a state, whether or not a separate legal entity;
- 12.10.6 any person are to be construed to include that person's assignees or transferees or successors in title, whether direct or indirect; and
- 12.10.7 clause headings are for ease of reference only and are not to affect the interpretation of this Agreement; and
- 12.11 For the avoidance of doubt, this Agreement supersedes any previous agreement, whether written or oral, express or implied, between the parties to it (or any of them) in relation to the subject matter of this Agreement.

**13. Other Security**

The Primary Lender shall be entitled at any time at its discretion and without consulting the Owner or Scottish Ministers to transact and deal with any other securities or guarantees of any kind that may be held by it in respect of the Owner's obligations to it and may sell, dispose of or realise such other securities in any order which it may determine and this Agreement shall remain in full force and effect notwithstanding such transactions or dealings.

**14. Separate Provisions**

If any provision of this Agreement is or becomes invalid, illegal or unenforceable that shall not affect the validity, legality or enforceability of any other provision.

**15. Governing Law**

This Agreement shall be governed by and construed according to Scots law and each of the parties submits to the exclusive jurisdiction of the Scottish courts.

**16. Consent to Registration**

The parties to this Agreement consent to its registration for preservation.

IN WITNESS WHEREOF this Agreement consisting of this and the # preceding pages are executed as follows:

<p>SUBSCRIBED for and on behalf of the Primary Lender by its duly authorised signatory at</p> <p>on the day of (Year-figure)</p> <p>in the presence of:-</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p>	<p>..... (Signature)</p> <p>..... (Full Name)</p>
<p>SUBSCRIBED by the Owner at</p> <p>on the day of (Year-figure)</p> <p>in the presence of:-</p> <p>..... Witness (Signature)</p> <p>..... Full Name</p> <p>..... Address</p> <p>.....</p> <p>..... Occupation</p>	<p>..... (Signature)</p> <p>..... (Signature)</p>



## Part three: Mortgage to Shared Equity

### Annexe C

#### Illustrated worked example

Jack is 35 years of age and bought his three apartment property five years ago. It is now worth £120,000. Jack has recently suffered a significant loss of income and has been unable to make any payments to his mortgage lender for four months. He now has an outstanding mortgage (including more than one month's arrears) of £80,000 and his equity is insufficient to allow him to trade down. He has been unable to reach agreement with his lender on how to manage the arrears and does not hold any capital. After taking independent money advice through his local Citizens Advice Bureau, Jack decides that the best option for him would be to apply to the Mortgage to Shared Equity scheme and submits an application.

The Scottish Government carries out an assessment of Jack's application to the Home Owners' Support Fund and confirms that:

- his flat is valued at less than the local maximum price for his size of property;
- he has taken independent money advice about his financial situation;
- he is ineligible for help through any UK Government support scheme;
- he has sufficient equity in his property to allow his application to be eligible for consideration through the Mortgage to Shared Equity scheme;
- his mortgage is conducted on a capital and interest basis and he has not had a trustee appointed to his estate;
- he has been unable to make any payments on his mortgage for at least three consecutive months, and has cumulative arrears of more than one month;
- he has been unable to reach agreement with his lender on how to manage the arrears;
- he does not own a home elsewhere;
- he wishes to remain in the property and has lived there for at least 12 months;
- his property is above the Tolerable Standard; and
- he does not hold capital in excess of £2,000.

Following a detailed assessment of his income and expenditure commitments, Jack's independent money adviser (Part one, Section two) concludes that Jack would be able to maintain a mortgage of £60,000. The Scottish Government agrees that this is a reasonable assessment of Jack's financial situation and writes to Jack telling him that his application has been approved. Jack discusses the Scottish Government's letter with his solicitor and decides that he would like to proceed with his application to the Mortgage to Shared Equity scheme. He therefore arranges for his money adviser to write to his mortgage lender to check that they are happy to proceed. As soon as Jack's mortgage lender confirms they are agreeable to reducing his mortgage and monthly payments, Jack formally confirms to the Scottish Government that he wishes to continue with his application.

The Scottish Government's solicitor sends Jack's solicitor the standard legal documentation so that Jack can be fully advised on its terms. The Scottish Government's solicitor also checks the titles to Jack's property, which are in order. Jack confirms that he is happy to proceed and the legal documentation is signed by all parties with an interest. Jack pays his solicitor for the legal advice he has received. And the Scottish Government pays Jack's mortgage lender £20,000 so that his mortgage can be reduced from £80,000 to £60,000. Scottish Ministers then hold a 16.67 per cent equity stake in the value of Jack's flat.

## Part three: Mortgage to Shared Equity

### Annexe D

#### Financial reconciliation – equity stake decreases

This example shows what would happen if an owner decides to decrease Scottish Ministers' equity stake in their property from 40 per cent to 20 per cent and then from 20 per cent to zero.

	£
Open market valuation (2 years after Scottish Ministers' equity stake)	130,000
Scottish Ministers' equity stake (40 per cent of £130,000)	52,000
Owner's equity stake (60 per cent of £130,000)	78,000
Owner then decreases the Scottish Ministers' equity stake to 20 per cent:	
Scottish Ministers' new equity stake (20 per cent of £130,000)	26,000
Owner's receipt to the Scottish Ministers (£52,000 – £26,000)	26,000
Open market valuation (4 years after Scottish Ministers' equity stake)	
Open market valuation (4 years after Scottish Ministers' equity stake)	150,000
Scottish Ministers' equity stake (20 per cent of £150,000)	30,000
Owner's equity stake (80 per cent of £150,000)	120,000
Owner then decreases the Scottish Ministers' equity stake to zero:	
Owner's receipt to the Scottish Ministers (£150,000 – £120,000)	30,000