

BERMUDA STATUTORY INSTRUMENT
HOUSING LOAN INSURANCE (MORTGAGE) REGULATIONS
1984

*[having legal effect by virtue of section 19 of the Housing Loan Insurance
Act 1984 (title 29 item 5)]*

[these regulations do not have a BR number]

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PART I

PRELIMINARY

Citation and application

1 (1) These Regulations may be cited as the Housing Loan Insurance (Mortgage) Regulations 1984.

(2) These Regulations shall have effect, subject to the Act, to regulate Bermuda Housing Corporation housing loan insurance where the loan in question is secured by a mortgage.

Interpretation

2 In these Regulations —

"the Act" means the Housing Loan Insurance Act 1984;

"amortization period" means the time within which a loan is required to be fully repaid;

"approved form" means form approved by the Corporation;

"claim" means insurance claim against the Corporation;

"home owner" means an individual who owns a house;

"home purchaser" means an individual who is purchasing, or, as the case may be, intends to purchase, a house;

"insured loan" means loan insured by the Corporation;

"lending value", in relation to property, means lending value assigned to the property by the Corporation;

"loan" means loan which is, or, as the case may be, is intended to be, an insured loan:

"mortgage" means mortgage securing a loan;

"mortgaged property" means property encumbered by a mortgage;

"project" means project for the purchase, construction, rehabilitation or improvement of housing accommodation;

"title" means title to mortgaged property;

"working day" means day on which the Corporation is open for business.

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PART II

ADDITIONAL REQUIREMENTS AFFECTING LOANS

Maxima for loans

3 (1) Loans financing projects described in the first column of the Table below shall not exceed the amounts respectively specified in the second column of that Table —

Table of Loan Maxima

- | | |
|--|--|
| (a) the purchase, rehabilitation or improvement of existing dwelling unit: | the aggregate of the insurance premium and 85% of the lending value of the dwelling unit; |
| (b) the construction of new dwelling unit: | the aggregate of the insurance premium and 85% of the lending value of the dwelling unit; |
| (c) existing rental housing project which is to be taken over by a registered housing association: | the aggregate of the insurance premium and 80% of the lending value of the dwelling units in the rental housing project; |
| (d) the construction of rental housing project: | the aggregate of the insurance premium and 80% of the lending value of the dwelling units in the rental housing project. |

(2) The amount of a loan shall not in any case exceed the aggregate of the insurance premium and \$215,000 per dwelling unit.

Amortization periods

4 (1) The maximum amortization period of a loan shall be—

- (a) the economic life (as determined by the Corporation) of the housing accommodation that is the subject of the project; or
- (b) thirty years,

whichever is shorter.

(2) The minimum amortization period of a loan shall be fifteen years, unless the borrower in a particular case himself proposes a shorter period.

Permitted payments

5 (1) A lender shall not either —

(a) by way of a provision in the mortgage or by way of any other arrangement (whether or not agreed to by the borrower) stipulate for payments to be made by the borrower; or

(b) accept payments from the borrower,

which are not permitted payments.

(2) Permitted payments referred to in paragraph (1) are the following —

(a) advances actually made by the lender to the borrower;

(b) interest allowed by law;

(c) credit charges allowed by law;

(d) disbursements actually made by the lender on behalf of the borrower;

(e) any insurance premium paid by the lender.

(3) The expression "allowed by law" in paragraph (2) means allowed by the Interest and Credit Charges Regulation Act 1975 [*title 17 item 22*] or any statutory modification or re-enactment of that Act for the time being in force.

Borrower's equity

6 A lender making a loan to a home owner or a home purchaser shall ensure that the borrower is contributing to the project from his own resources in cash, labour or unencumbered land, or any combination of cash, labour and unencumbered land, value equal to or exceeding fifteen per cent of the lending value of the house.

Holdbacks

7 In making advances on a loan a lender shall, but without prejudice to regulation 19, at all times retain an amount at least equal to the amount that he estimates it will cost to complete the project.

Alterations to loans

8 (1) Every alteration to a loan in respect of which a undertaking to insure is in force requires the consent of the Corporation.

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(2) A lender desiring such an alteration as aforesaid shall make to the Corporation an application in approved form accompanied by the relevant fee.

(3) This regulation does not apply to a reduction of loan under regulation 16 or 20.

PART III

UNDERTAKINGS TO INSURE

Applications for undertakings

9 (1) A lender seeking an undertaking to insure shall make application to the Corporation in approved form, and shall deliver to the Corporation, along with a completed application form, —

- (a) the relevant fee;
- (b) particulars of the terms and conditions of the loan including the fees and charges that will be payable under it;
- (c) plans and specifications of the project; and
- (d) such further documents and information as the Corporation may require.

(2) The Corporation shall refund a fee paid pursuant to paragraph (1)(a) if the Corporation does not issue the undertaking.

Form of undertakings

10 Where the Corporation approves an application made to it by a lender pursuant to regulation 9, it shall issue to him an undertaking to insure, and shall also inform him of the terms and conditions of the proposed insurance.

Restrictions on giving of undertakings

- 11 (1) The Corporation shall not issue an undertaking to insure—
- (a) in the case of a loan financing the construction of three or fewer new dwelling units, if work has been carried out beyond the first floor joist stage of construction or, as the case may require, beyond the stage corresponding to that stage; or
 - (b) in the case of a loan financing the construction of four or more new dwelling units, if work (other than excavation work) has commenced,

unless the Corporation is satisfied that the work complies with the Corporation's construction standards.

(2) In the case of a loan financing the purchase, rehabilitation or improvement of existing housing accommodation, the Corporation may issue an undertaking to insure whether or not rehabilitation or improvement work has commenced.

PART IV

CONSTRUCTION AND INSPECTION

Construction standards

12 (1) The Corporation shall not be liable under an undertaking to insure or under an insurance policy unless the project complies with the Corporation's construction standards.

(2) In these Regulations the expression "the Corporation's construction standards" means the standards set by the Building Code 1972 [*title 20 item 1(f)*] or any higher standards notified to a lender by the Corporation either generally or in a particular case.

Inspection of work

13 (1) The Corporation has the right to inspect any project.

(2) Paragraph (1) does not require the Corporation to supervise any project.

(3) Paragraph (1) does not relieve any person of any duty that is placed upon him by these Regulations or any other law.

Notification of breaches

14 (1) Where an inspection under regulation 13 reveals a breach, the Corporation shall within five working days after the conclusion of the inspection inform the lender by notice in writing of the breach.

(2) In this regulation and regulations 15, 16 and 33 "breach" means a breach of the Corporation's construction standards or a variation from any plans or specifications previously communicated to the Corporation for the project.

Consequences of breaches

15 (1) This regulation and regulation 16 shall have effect where a lender is informed of a breach by a notice under regulation 14.

(2) The lender shall forthwith upon receiving the notice in turn inform the borrower of the breach specified in the notice.

(3) Where instalments are insured and the Corporation so directs, the lender shall not make any further instalments until the

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Corporation, being satisfied that the breach has been remedied, authorizes him in writing to make further instalments.

(4) Where instalments are not insured, an insurance policy shall not be issued until either —

(a) the Corporation in writing notifies the lender that the breach has been remedied to the Corporation's satisfaction; or

(b) the loan is reduced pursuant to regulation 16.

Reduction of loan as sanction for reg. 15

16 If any breach is not remedied to the Corporation's satisfaction, the Corporation may by notice in writing require the lender to reduce the loan by such amount as the Corporation may specify in the notice, and the maximum amount of the loan shall thereupon be the amount of the loan as so reduced.

PART V

INSURANCE POLICIES

Issue of policies

17 (1) Where —

(a) either —

(i) the full amount of a loan has been advanced and the project has been completed to the Corporation's satisfaction; or

(ii) the case is one to which regulation 19 applies and the requirements of paragraph (2) of that regulation have been complied with; and

(b) the relevant insurance premium has been paid; and

(c) any special conditions contained in the undertaking to insure have been complied with,

the Corporation shall issue an insurance policy to the lender.

(2) The form of the insurance policy shall be either that set out in the First Schedule or a form as near to that form as the circumstances permit.

Recording of title defects in policies

18 A lender may request the Corporation to approve a defect in the title and, where the Corporation approves such a defect, it shall record the defect in the insurance policy as an approved defect.

Issue before full advancement

19 (1) This regulation shall have effect to empower the Corporation to issue an insurance policy for the full amount of a loan before the loan is fully advanced.

(2) For the Corporation to issue an insurance policy under this regulation, the following conditions must be satisfied—

- (a) the project must be one of construction, rehabilitation or improvement for a home owner or home purchaser, being a home owner or home purchaser who occupies or will occupy the house;
- (b) the amount of the un-advanced portion of the loan must be not less than twice the cost (as determined by the Corporation) of completing the project;
- (c) the Corporation must be satisfied that the project has been substantially completed, and that the failure to complete it has been caused by weather conditions or some other supervening event justifying the failure;
- (d) the lender must have undertaken to the Corporation in writing to require the borrower to complete the project to the Corporation's satisfaction by a date fixed by the Corporation;
- (e) the lender must have undertaken to the Corporation in writing to return the policy to the Corporation if the loan is reduced.

Reduction of loan as sanction for reg. 19

20 (1) Where an insurance policy has been issued to a lender under regulation 19 and the work is not completed to the Corporation's satisfaction by the date fixed by the Corporation pursuant to regulation 19(2)(d), the Corporation may in writing require the lender to reduce the loan by the amount of the un-advanced portion of the loan, and the maximum amount of the loan shall thereupon be the amount of the loan as so reduced.

(2) Where a loan is reduced pursuant to paragraph (1), the Corporation shall refund any insurance premium that has been paid on the amount by which the loan has been so reduced.

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(3) A lender who is required by the Corporation under paragraph (1) to reduce a loan shall return the insurance policy to the Corporation for replacement by an insurance policy covering the loan as required to be reduced.

Insured instalments

21 Where instalments are insured, an instalment shall not be covered by the insurance policy unless the Corporation has expressly authorized beforehand the making of the instalment.

Insurance premium

22 (1) Where instalments are insured, insurance premium shall be payable on the full amount of the loan when the first instalment is made to the borrower.

(2) Where instalments are not insured, insurance premium shall be payable on the amount of the loan actually advanced to the borrower.

PART VI

CLAIMS ETC.

Payment of claims

23 Where in relation to a claim by a lender the Corporation has received all the required documents, the Corporation shall be bound to discharge its legal liabilities to the lender in respect of the claim on or before the thirtieth day next following receipt by the Corporation of the last of those documents.

(2) The expression "required documents" in paragraph (1) means documents required by any provision of these Regulations or the insurance policy, or by the Corporation acting pursuant to any such provision, to be supplied to the Corporation before it pays a claim.

Prescription of amount of principal owing

24 (1) The amount prescribed for the purpose of paragraph (c)(i)(aa) of subsection (1) of section 16 of the Act as the amount of the principal owing under a mortgage is the balance of the principal outstanding on the mortgage at the time of default.

(2) The expression "time of default" in paragraph (1) means the time of the failure (being a failure by the borrower to comply with a requirement imposed upon him by the mortgage) upon which the claim is grounded or, where the claim is grounded upon more than one such failure, the time of the latest such failure.

Prescription of range of borrower's charges

25 The range of expenditures prescribed for the purpose of paragraph (c)(i)(bb) of subsection (1) of section 16 of the Act is (to the extent that any such expenditure is capable of being a borrower's charge within the definition of that expression in section 2(1) of the Act) the following, that is to say—

- (a) insurance premiums paid in respect of property insurance;
- (b) taxes or other imposts paid to the Government or any local government authority, being taxes or imposts having priority over the mortgage;
- (c) legal expenses paid in connection with action taken to realize the mortgage security or to collect payments due on the mortgage;
- (d) expenditure not exceeding \$500 on emergencies;
- (e) any other expenditure (whether of a kind specified in paragraphs (a) to (d) or not) expressly approved in writing by the Corporation beforehand.

Lender to sue in certain cases before making claim

26 The Corporation has the right, before paying a claim, to require the lender to obtain a judgment against the borrower or, where there is a guarantee of the loan, against the guarantor for the amount of the debt outstanding under the mortgage or for such smaller amount as the Corporation may approve, and to assign the benefit of the judgment to the Corporation.

Effect of title on claims

27 (1) It is the duty of a lender to satisfy himself as to the adequacy, and otherwise as to the state, of the title.

(2) The Corporation need not concern itself at any time before a claim is made as to the adequacy, or otherwise as to the state, of the title, except where, and to the extent that, a lender requests the Corporation's approval of a defect in the title pursuant to regulation 18; and the Corporation shall in particular not be bound by any opinion which a lender may obtain, whether at the time of making application to the Corporation for insurance or at any other time, from a barrister and attorney as to the adequacy or state of the title.

(3) Before it settles a claim, the Corporation has the right to satisfy itself as to the adequacy, and otherwise as to the state, of the title, and to inspect the documents of title; and a claim by a lender shall not be properly constituted until the lender has made those documents

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available to the Corporation so that the Corporation may exercise that right.

(4) If the Corporation does not serve upon the lender a notice under paragraph (5), the Corporation shall be taken, for the purposes of the settlement of the claim, to have approved the title as propounded by the lender.

(5) Where upon inspecting documents of title pursuant to paragraph (3) the Corporation is satisfied that there is a defect in the title which adversely affects the Corporation's liability under section 16(1) of the Act, the Corporation shall inform the lender of the defect by serving notice in writing of the defect upon him within thirty days after those documents were made available to the Corporation; and, for the purposes of the settlement of the claim, the decision of the Corporation as to the adequacy or state of the title or as to any defect in the title shall be binding on the lender:

Provided that the following shall not be defects in a title for the purposes of this paragraph, that is to say —

- (a) any easement, encroachment or other restriction that does not adversely affect the reasonable use of the mortgaged property for residential purposes;
- (b) any defect recorded in the insurance policy pursuant to regulation 18.

(6) In the settlement of a claim, the money amount to be attributed to the mortgaged property in calculating the Corporation's net liability to a lender under section 16(1) of the Act in respect of the claim shall be the market value of the mortgaged property unless the Corporation served notice of a defect upon the lender under paragraph (5), in which event the market value of the mortgaged property shall be increased by the amount by which that money amount must, in the opinion of the Corporation, be increased so as to relieve the Corporation of any liability on account of that defect; and the amount prescribed for the purpose of section 16(1)(c) of the Act as the proceeds of a sale made in the exercise of a power of sale is that money amount as so increased.

(7) In this regulation, "market value", in relation to a mortgaged property, means the amount which a willing, purchaser, fully and, where necessary, professionally advised in relation to all relevant factors including the quality of the title, is willing to pay for the mortgaged property to a willing vendor so advised in an arm's length transaction.

Vacant possession

28 (1) The Corporation shall not purchase a mortgaged property without vacant possession.

(2) Paragraph (1) shall not prevent the Corporation from purchasing a mortgaged property which at the time of the purchase is subject to a tenancy or lease with an unexpired term not exceeding three years (or such longer period as the Corporation may in any particular case accept), being a tenancy or lease held by a person other than —

- (a) the mortgagor; or
- (b) a person related by blood or marriage to the mortgagor.

PART VII

MISCELLANEOUS

Property insurance

29 (1) Every lender shall ensure, whenever any part of a loan is outstanding, that his interest as mortgagee in the mortgaged property is protected by comprehensive property insurance.

(2) If, where any part of a loan is outstanding, damage of \$5,000 or more occurs to the mortgaged property from fire or some other insurable peril, the lender shall forthwith give notice in writing to the Corporation of the occurrence.

(3) Where notice has been given to the Corporation pursuant to paragraph (2), any work of repair done to the mortgaged property shall not be binding on the Corporation unless the Corporation has certified in writing its satisfaction with the work.

Reporting of defaults

30 (1) Every lender shall within thirty days (or such longer period as the Corporation may approve) after the end of every calendar month make to the Corporation, in relation to every loan administered by him, a report, prepared in approved form, giving the required particulars of every default of which he is, or under normal and prudent mortgage practice ought to be, aware, and specifying the steps taken to have the default corrected.

(2) In paragraph (1) —

"default", in relation to a loan, means —

- (a) failure by the borrower for two months or more to make any payment which he is required by the mortgage to make in respect of principal, interest, property insurance or taxes; or

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- (b) failure (not being a failure provided for in sub-paragraph (a)) by the borrower to comply with any requirement imposed upon him by the mortgage;

"the required particulars" means the particulars specified on an approved form.

Annual statements

31 Every lender shall on or before the 31st day of January in every year send to the Corporation a statement in approved form specifying —

- (a) the number of; and
- (b) the aggregate amount outstanding in relation to,

the loans under administration by him on the 31st day of December of the immediately preceding year.

Access to lenders' records

32 Every lender shall, upon request made to him by the Corporation, afford to one or more duly authorized representatives of the Corporation within a reasonable time full access during the lender's normal business hours to the lender's books, records and accounts relating to any insured loan of his.

Sanction for breach of proper mortgage practice

33 (1) Every lender shall in or in relation to making a loan comply with normal and prudent mortgage practice.

(2) For the purposes of paragraph (1) making a loan means the following —

- (a) determining the borrower's financial capability to repay and service the loan;
- (b) establishing the location of the proposed work on the property to be mortgaged;
- (c) checking the validity and adequacy of the title;
- (d) making legal arrangements for the completion and formalization of the loan contract and the taking of security;
- (e) administering the loan, including overseeing the property insurance whether pursuant to regulation 29 or otherwise.

(3) Normal and prudent mortgage practice in these Regulations means the taking of every measure, and the doing of every act,

reasonably required to be taken or done for the protection of the interest of a lender making a loan.

(4) If a lender contravenes paragraph (1), the Corporation may deduct from the amount otherwise payable by the Corporation to the lender under the insurance policy such amount as is referable to the contravention.

(5) The fact that a loan was reduced at the Corporation's instance under regulation 16 on account of a breach does not derogate from the Corporation's right to make a deduction under paragraph (4) on account of facts constituting or connected with that breach.

Fees

34 There shall be payable in respect of the matters specified in the first column of the Second Schedule the fees respectively specified in the second column of that Schedule.

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FIRST SCHEDULE (Regulation 17(2))

STANDARD FORM OF INSURANCE POLICY

B.H.C. Ref:

Lender Ref:

BERMUDA HOUSING CORPORATION

INSURANCE POLICY

PURSUANT TO THE HOUSING LOAN INSURANCE ACT 1984 AND THE
REGULATIONS THEREUNDER, THE BERMUDA HOUSING
CORPORATION (hereinafter called the "Insurer") HEREBY INSURES

[*blank*] (hereinafter called the "Insured") on the conditions set forth on
the attached.

Borrower

Address

Title defects, if any (identified hereunder) are acceptable to the Insurer.

Gross advances disbursed, including Insurance premium \$ [*blank*]

Interest Rate [*blank*] %

Credit Charge Rate [*blank*] %

Amortization period [*blank*] years

BERMUDA HOUSING CORPORATION

Date [*blank*] Signature [*blank*]

General Mgr. or authorized representative

Chairman of Board

Note: This insurance policy is incomplete if not accompanied by the
conditions set forth on the attached.

CONDITIONS

ASSIGNMENT OF MORTGAGE LOAN

1 If the loan is sold by the Insured, this policy may be assigned to
the purchaser of the loan: provided that the loan shall at all times
continue to be administered in accordance with normal and prudent

mortgage practice by a person who is an approved lender under the Housing Loan Insurance Act 1984. Notice of any such assignment shall be given to the Insurer within 30 days of the assignment.

MONITORING OF DEFAULTS AND ENFORCEMENT OF MORTGAGE SECURITY

- 2 If the borrower goes into default, the Insured shall —
- (a) forthwith request the borrower to remedy the default;
 - (b) if the Insurer so requires, attempt to negotiate with the borrower an arrangement satisfactory to the Insurer for remedying the default;
 - (c) if the Insurer so requires, institute and diligently pursue proceedings to realize the mortgage security in such manner as the law may permit and the Insurer may direct.

CLAIM ONLY WHERE BORROWER IN DEFAULT

- 3 A claim may not be made unless the borrower is in default at the date of the claim.

ASSIGNMENT OF LOAN TO INSURER

- 4 If the borrower goes into default, the Insurer may request the Insured to assign the loan to the Insurer and to make a claim pursuant to paragraph (b) of clause (1) of condition 6.

SALE OF MORTGAGED PROPERTY

- 5 Where the Insured exercises the right to sell the mortgaged property, he shall —
- (a) deliver to the Insurer not less than 20 days before the sale a current appraisal of the property;
 - (b) give the Insurer not less than 10 days notice of the sale;
 - (c) ensure that the sale is conducted in accordance with procedures acceptable to the Insurer.

FILING OF CLAIM

- 6 (1) The Insured shall deliver his claim to the Insurer within 30 days (or such longer period as the Insurer may allow) —
- (a) of the date of sale, where the Insured sells the property in exercise of a power of sale; or

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- (b) of the date of receipt by the Insured of the request, where pursuant to condition 4 the Insurer requests an assignment of the loan.
- (2) A claim shall —
 - (a) be on a form provided by the Insurer; and
 - (b) set out the amounts claimed under condition 7; and
 - (c) be accompanied by the documents called for by condition 9; and
 - (d) furnish such other information and be accompanied by such further documents as the Insurer may reasonably require.

LIABILITY OF INSURER

7 The amount payable by the Insurer shall be the amount arrived at in the following manner —

- (a) subject to paragraphs (b) to (d) below, the aggregate of the following shall be paid—
 - (i) the outstanding principal;
 - (ii) approved borrower's charges paid by the Insured after the default;
 - (iii) interest, on the aggregate of the amounts described at sub-paragraphs (i) and (ii), from the date of the default to the date of the claim or, where there is a sale, to the date of sale;
- (b) where there is a sale, there shall be deducted from the amount resulting from the calculation under paragraph (a) the amount of the proceeds of the sale after deducting the costs of the sale, as approved by the Insurer;
- (c) there shall then be added to the amount resulting from the calculation under paragraph (b) approved borrower's charges paid by the Insured before the default;
- (d) there shall then be added interest, from the date to which interest was calculated pursuant to sub-paragraph (iii) of paragraph (a) to the date on which the Insurer pays the claim, on the amount resulting from the calculation under paragraph (c).

TREATMENT OF CERTAIN RECEIPTS ETC.

8 Unless the Insurer agrees otherwise, the following rules shall apply in relation to a claim—

- (a) all payments on account of the mortgage received by the Insured after default and before the date of the claim shall be applied by the Insured as at the date of receipt, firstly, to the payment of interest, secondly, to the payment of borrower's charges and, thirdly, to the payment of outstanding principal, in each case then outstanding;
- (b) other income received by the Insured as mortgagee including rental income arising where the Insured takes possession of the mortgaged property shall be applied by him, firstly, to expenditure on repairing, improving, maintaining, renting or otherwise managing the mortgaged property and, secondly, to paying interest, borrower's charges and principal in the manner specified in paragraph (a);
- (c) if any part of the mortgaged property is taken by the exercise of a power of expropriation or any similar power and compensation for the taking is paid to the Insured, the compensation shall, to the extent necessary for the purpose, be applied to extinguishing the outstanding principal;
- (d) the Insured's claim shall be reduced by an amount equal to the amount by which the cost of repairing or replacing damage or loss to the mortgaged property exceeds the amounts paid under property insurance policies, unless the damage or loss was repaired or replaced prior to the settlement of the claim.

DOCUMENTS IN SUPPORT OF CLAIM

9 (1) The provisions of this condition shall have effect as respects the documents to be supplied to the Insurer in support of a claim.

(2) The following shall be supplied —

- (a) in a case where the mortgaged property has been sold to a third party in exercise of a power of sale —
 - (i) a copy of the sale agreement and any other document relating to the sale that the Insurer reasonably requests;

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- (ii) either a copy of the conveyance or an affidavit from the Insured that the mortgaged property has been sold under the power of sale;
 - (iii) if a judgment has been obtained against the borrower, a copy of the judgment and an assignment of the benefit thereof to the Insurer, if the Insurer so requests;
- (b) in a case where the mortgage is to be assigned to the Insurer—
 - (i) all title documents in the possession of the Insured;
 - (ii) a copy of the barrister and attorney's certificate as to title obtained when the loan was made, including verification of the location of the improvement on the mortgaged property;
 - (iii) an instrument of assignment assigning to the Insurer the mortgage and any other security held by the Insured in respect of the loan.
- (3) In a case where the title to the mortgaged property is to be transferred to the Insurer under a power of sale, the following shall be supplied prior to the closing of the sale —
 - (a) all title documents in the possession of the Insured;
 - (b) a copy of the barrister and attorney's certificate as to title obtained when the loan was made, including verification of the location of the improvement on the mortgaged property;
 - (c) a draft of the proposed conveyance to the Insurer;
 - (d) if a judgment has been obtained against the borrower, a copy of the judgment and an assignment of the benefit thereof to the Insurer, if the Insurer so requests.

NEGLIGENCE OF INSURED

10 (1) If whether before or after the default the Insured has been negligent in making the loan or in protecting the security, the Insurer may deduct from the amount otherwise payable under condition 7 such amount as is referable to the negligence.

(2) An Insured shall not be deemed to have been negligent within clause (1) if in acting as he did he followed normal and prudent mortgage practice.

(3) "Insured" in this condition includes an approved lender administering a loan for the Insured.

WHEN POLICY CEASES TO BE IN FORCE

- 11 This policy shall cease to be in force if —
- (a) the loan is paid in full; or
 - (b) the Insurer pays a claim; or
 - (c) without the Insurer's consent the Insured releases the borrower (or any successor of the borrower approved by the Insurer) from any liability to make a payment falling to be made under the mortgage; or
 - (d) any amendment, alteration or addition is made to the loan without the Insurer's consent; or
 - (e) the loan ceases to be administered by an approved lender; or
 - (f) the right to recover the loan ceases to exist otherwise than by reason of the Insured acquiring the mortgaged property after default; or
 - (g) the Insured fails to make a claim within the time allowed by condition 6; or
 - (h) the Insured fails to comply with condition 9, whichever first occurs.

NOTICES

12 (1) All requests, agreements, demands, approvals, waivers, consents or notices of any kind required or permitted to be made or given under this policy shall be made or given in writing, and shall be sufficiently made or given if sent by ordinary post addressed to the Insurer or the Insured, as the case may be, at their respective address shown on the face of this policy or at such other address as they may each from time to time specify in writing to the other.

(2) All such requests, agreements, demands, approvals, waivers, consents and notices shall be conclusively deemed to have been received on the day next following the day of posting.

CONFLICTS WITH STATUTORY PROVISIONS

13 Anything in this policy which conflicts with a provision having statutory effect in Bermuda shall be deemed amended to conform with the minimum requirements of that provision.

**HOUSING LOAN INSURANCE (MORTGAGE) REGULATIONS
1984**

ARBITRATION

14 If any dispute or difference arises between the Insurer and the Insured concerning their respective rights and obligations under this policy, the dispute or difference shall be determined by arbitration in Bermuda under the Arbitration Act 1924 (or any statutory modification or re-enactment of that Act for the time being in force) by a single arbitrator, if the Insurer and the Insured can agree on one; but, failing such agreement, the Insurer and the Insured shall each appoint one arbitrator, and the two arbitrators so appointed, or, failing agreement by the arbitrators, the Chief justice, shall appoint an umpire.

INTERPRETATION

15 (1) This policy has been made, and shall be interpreted and construed, according to the law of Bermuda, and shall enure to the benefit of, and be binding upon, the respective successors and assigns of the Insurer and the Insured.

(2) In this policy —

"approved borrower's charges" means borrower's charges unpaid by the borrower and accepted by the Insurer as payable by the Insurer;

"the borrower" means the borrower of the loan;

"claim" means claim under this policy;

"default" means default by the borrower in complying with a requirement imposed upon him by the mortgage;

"interest" means interest charges and credit charges at the respective rates payable by the borrower at the time of default;

"the loan" means the loan secured by the mortgage and insured by this policy;

"the mortgage" means the mortgage securing the loan.

SECOND SCHEDULE (Regulation 34)

Fees

| | |
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| Original application for undertaking to insure: | \$50 per dwelling unit |
| Extension of undertaking to insure, being an extension that is in the opinion of the Corporation material: | \$50 per dwelling unit |
| Extension of undertaking to insure, being an extension that is in the opinion of the Corporation not material: | \$25 per dwelling unit |
| Increase in the loan amount: | the percentage increase of the amount applied for over the amount that was originally approved shall be multiplied by two, and the resulting percentage shall then be applied to the original fee. |

[Amended by
BR 16/1988]