

GOVERNMENT NOTICE No. 72

TRINIDAD AND TOBAGO

THE HOUSING ACT, 1962

REGULATIONS

MADE BY THE AUTHORITY, WITH THE APPROVAL OF THE MINISTER, UNDER SECTION 64 (1) OF THE HOUSING ACT, 1962

THE NATIONAL HOUSING AUTHORITY REGULATIONS, 1969

1. These Regulations may be cited as the National Housing Authority Citation Regulations, 1969.

2. In these Regulations—

(a) "approved mortgage" means a mortgage that satisfies the provisions of regulation 13 and is otherwise in a form approved by the Authority;

Interpre-
tation

(b) "approved mortgagee" means a person approved by the Authority for the purpose of making loans under the Act;

(c) "Board" means the Board of Inland Revenue;

(d) "guarantee" means a guarantee that satisfies the provisions of sections 12 and 13 of the Act;

(e) "initial sale" means the first sale by any party, to any other party, of a dwelling house, subsequent to completion, and prior to first occupation thereof for any purpose whatsoever;

(f) "registered trader" means a person registered under the provisions of regulation 4 as a trader in newly constructed dwelling houses;

(g) "Secretary" means the Secretary to the Authority;

(h) "the Act" means the Housing Act, 1962.

Act No. 3
of 1962

3. (1) Where any person desires to be registered as a trader in newly constructed dwelling houses, he shall submit an application to the Authority on the form set out as Form No. 1 in the First Schedule together with an application fee of ten dollars.

Registration
as a trader
Form No. 1
First
Schedule

(2) The application fee shall be returned to the applicant if the application is rejected.

4. (1) The Authority may direct the Secretary to register, as a trader in newly constructed dwelling houses, any person whom it is satisfied is engaged in the construction of dwelling houses for sale.

Persons who
may be
register

(2) Where the Secretary has been directed by the Authority under the provisions of paragraph (1) to register a person as a trader in newly constructed dwelling houses, the Secretary shall register such person by entering such person's name in a Register to be kept by him for the purpose.

5. (1) Where a person is registered as a trader in newly constructed dwelling houses, the Authority may, in its discretion, direct the Secretary to cancel such registration and to remove such person's name from the Register.

Cancellation
of registra-
tion

(2) Notwithstanding the removal of a person's name from the Register in pursuance of a direction of the Authority under the provisions of paragraph (1), such person shall be deemed to be a registered trader for the purpose of claiming exemption from income tax under paragraph (c) of subsection (2) of section 18B of the Income Tax Ordinance in respect of any newly constructed dwelling house the construction of which the Authority certifies was commenced prior to the date of such removal.

Approval &c.
of mort-
gagees

6. (1) The Authority may approve of such persons as it thinks fit as approved mortgagees and may at any time withdraw such approval.

(2) The Authority shall publish in the *Gazette* notice of any such approval or withdrawal of approval.

Application
for guarantee
of Authority

7. (1) Where an approved mortgagee proposes to lend a sum of money not exceeding twenty-five thousand dollars to a person (in this regulation referred to as "the mortgagor") for the purchase or construction of a dwelling house to which Part II of the Act applies, the mortgagor and the approved mortgagee shall, if they desire the Authority to enter into a guarantee in respect of the repayment of the loan, make an application to the Authority for an undertaking as provided for in regulation 8.

Form No. 2

(2) (a) An application under this regulation shall be in the form set out as Form No. 2 in the First Schedule and shall be submitted to the Authority together with—

(i) a fee of three dollars for every thousand dollars or part thereof of the amount of the proposed loan, which fee shall be paid by the mortgagor; and

(ii) three copies of the plans and specifications of the proposed building, where the loan is for the purpose of constructing a dwelling house.

(b) If the Authority does not approve of the application, or if the application is withdrawn by the applicants before the undertaking is given, one-half of such fee shall be returned to the mortgagor.

Manner of
undertaking
guarantee by
Authority
Form No. 3

8. Subject to the provisions of the Act and of these Regulations, the Authority shall, on approving an application made under regulation 7, give an undertaking signed by the Secretary in the form set out as Form No. 3 in the First Schedule that it will enter into a guarantee in respect of the loan that is the subject of the application.

Circum-
stances in
which guar-
antee may
be entered
into

9. The guarantee referred to in regulation 8 shall be entered into only—

(a) where the loan is to be made for the purpose of purchasing a dwelling house, upon satisfactory proof of the purchase by the mortgagor of the dwelling house and on production of the approved mortgage executed by the mortgagor and the mortgagee securing the repayment of such loan;

(b) where the loan is to be made for the purpose of constructing a dwelling house, if the dwelling house is constructed in accordance with the plans and particulars as approved by the Authority and upon presentation of an approved mortgage on the said dwelling house executed by the mortgagor and the mortgagee securing the repayment of such loan.

10. An application made under regulation 7 shall not be approved—
- (a) where the repayment of any other loan by the mortgagor is the subject of a guarantee by the Authority;
- (b) where there is an undischarged undertaking by the Authority to enter into a guarantee in respect of any other loan to be made to the mortgagor, unless the parties for whose benefit such undertaking was given shall, by writing under their hand, release the Authority from its obligations thereunder; and
- (c) unless the mortgagor establishes to the satisfaction of the Authority—
- (i) that he has a good credit standing; and
- (ii) that the periodic payments which he will be required to make under the approved mortgage securing the repayment of the loan referred to in such application bears a proper relation to his present and anticipated net income.
11. (1) Subject to the provisions of sections 12 and 13 of the Act, every mortgage produced to the Authority for the purpose of obtaining the Authority's guarantee pursuant to an undertaking shall satisfy the provisions of this regulation.
- (2) The interest of the mortgagor subject to the mortgage shall be, either—
- (a) the fee simple absolute in the land on which the dwelling house stands; or
- (b) a term of years absolute in freehold land under a lease which is due to expire at least two years after the date when the last of the amortization payments becomes due.
- (3) The mortgage shall be a first charge upon the property mortgaged.
- (4) The mortgage shall bear interest at a rate approved by the Authority which, when consolidated with the prescribed rate prevailing at the date of the execution of the mortgage in respect of mortgage insurance; and the maximum rate in respect of a service charge prescribed by subparagraph (b) of paragraph (6), does not exceed an interest rate of eight per centum per annum calculated on the principal sum in the manner approved by the Authority.
- (5) The mortgage shall contain provisions satisfactory to the Authority for—
- (a) the complete amortization of the principal sum, interest and other sums, if any, payable under paragraph (6) calculated in the manner approved by the Authority under paragraph (4) but payable by monthly instalments secured within a period of not more than twenty-five years from the date of guarantee nor more than three-quarters of the Authority's estimate of the economic life of the building, whichever is the less;
- (b) the insurance by the mortgagor of the building against fire and such other hazards as the Authority may stipulate, and in such amount and with such insurance company as the Authority may approve;

Circumstances in which application under regulation 7 must not be approved

Matters to be contained in mortgage where application for Authority's guarantee thereof

- (c) equal monthly payments by the mortgagor of such an amount as will discharge the ground rent, if any, and the estimated amount of all rates, taxes, and other special assessments, if any, and fire and other hazard insurance premiums within a period ending on the interest payment date immediately prior to the date on which such rent, assessments or premiums, as the case may be, shall become due and owing;
- (d) the adjustment of the monthly payments referred to in subparagraph (c) in case the estimated amount of such taxes, assessments and insurance premiums shall prove to be or shall become more or less than the actual amount thereof so paid by the mortgagor;
- (e) requiring the consent of the Authority, so long as it is liable under the guarantee, to the assignment or conveyance by the mortgagor to a third person of his right to redeem, or of his interest in, the mortgaged property.

(6) In addition to the interest permitted under paragraph (4), the mortgage shall provide—

- (a) for payment by the mortgagor on or before the execution of the approved mortgage of a sum equal to the prescribed insurance fee payable by the mortgagee under section 14 of the Act;
- (b) for monthly payments by the mortgagor of a service charge at a rate not exceeding the rate of one per centum per annum of the balance of the principal sum for the time being owing under the mortgage;
- (c) for such other matters as the Authority may approve.

(7) The mortgage shall contain a provision permitting the mortgagor, on the expiration of two years after the mortgage was executed, and upon giving thirty days' notice in writing and paying such additional charges as may be agreed upon by the parties to the mortgage, to discharge the balance for the time being outstanding, or any part thereof amounting to the sum of either four hundred and eighty dollars or five hundred dollars (at the option of the mortgagee) or any multiple thereof, on the day when payment of interest is due.

Aggregate
monthly
payment

12. (1) All monthly payments to be made by the mortgagor to the mortgagee under an approved mortgage shall be added together and the aggregate amount thereof paid, on a date to be fixed in the mortgage in a single payment (in this regulation referred to as the "aggregate monthly payment").

(2) The mortgagee shall apply the aggregate monthly payment towards the discharge of the mortgagor's obligations under the mortgage in the following order:

- (a) the amount, if any, payable under the mortgage pursuant to subparagraph (a) of paragraph (6) of regulation 11;
- (b) the amount payable under the mortgage pursuant to subparagraph (c) of paragraph (5) of the said regulation;
- (c) the service charge, if any;
- (d) interest due under the mortgage;
- (e) the amortization of the principal sum secured under the mortgage.

(3) For the purpose of section 10 of the Act, borrower charges are such expenses as are incurred by an approved mortgagee in accordance with the terms of the mortgage to safeguard the interest of the mortgagee and the Authority for—

- (a) insurance premiums for fire and other perils insured against;
- (b) taxes and other rates and charges levied against the property which have priority over the mortgage;
- (c) any premiums in respect of life insurance required to be effected under the mortgage;
- (d) any emergency expense; and
- (e) such other purposes and in such amounts as may be approved by the Authority in writing.

13. On or before the execution of the approved mortgage, the mortgagor shall pay to the mortgagee such a sum as will be sufficient to discharge—

(a) the ground rent, if any, and the estimated amount of all rates, taxes, special assessments and fire and other hazard insurance premiums for the period beginning on the date up to which such ground rent, rates, taxes, assessments and fire and other hazard insurance premiums were last paid and ending on the date on which the next monthly payment is due under the mortgage; and

(b) the insurance fee payable by the mortgagee under section 14 of the Act, where a provision is contained in the mortgage pursuant to subparagraph (a) of paragraph (b) of regulation 11.

14. (1) Where the repayment of a loan secured by a mortgage on a dwelling house is subject to a guarantee, a mortgagor or mortgagee, as the case may be, shall obtain the consent of the Authority before he executes any alterations or improvements to such dwelling house.

(2) If any mortgagor or mortgagee acts in contravention of paragraph (1), he is liable on summary conviction to a fine of two hundred and fifty dollars.

(3) In this regulation, "mortgagor" and "mortgagee" include the assignee of, or the successor in title to, the interest of the mortgagor or mortgagee, as the case may be, in the dwelling house.

15. (1) At the end of each month the mortgagee shall notify the Authority, in the form set out as Form No. 4 in the First Schedule of all mortgagors who have failed to make any payment or to perform any other covenant or obligation under the mortgage of which the mortgagee has actual knowledge.

(2) If after the making of a report under this regulation the mortgagor shall perform the covenant or obligation occasioning such report, the mortgagee shall notify the Authority accordingly.

16. It shall be a condition of every guarantee that the interest of the mortgagor in the mortgaged premises is not less than it is represented to be in the mortgage deed securing the repayment of the loan in respect of which such guarantee was entered.

Restrictions on exercise of power of sale

17. (1) So long as the Authority is liable under a guarantee, the mortgagee with whom such guarantee was entered into shall not exercise his power of sale—

- (a) at any time without giving fourteen days' prior notice in writing to the Authority of his intention so to do;
- (b) within one month from the date on which such right shall have become exercisable under the mortgage, except with the written consent of the Authority;
- (c) without giving the Authority the option, on the exercise of such power, of purchasing the property which is the subject of the mortgage;
- (d) by private contract if the Authority shall request a sale by public auction.

(2) Without prejudice to the provisions of paragraph (1), when a mortgagee's power of sale becomes exercisable, such mortgagee shall exercise such power within such time and in such manner as the Authority may direct.

(3) Notwithstanding paragraphs (1) and (2), the mortgagee may at any time after a mortgagor has twice in one year been in default give seven days' notice in writing to the Authority of its intention to foreclose or exercise its power of sale and if the Authority does not within fourteen days after the expiration of the notice exercise its option to purchase the property, the mortgagee shall be at liberty to foreclose or exercise its power of sale and any such sale may be by public auction or private contract in the discretion of the mortgagee.

Circumstances in which guarantee becomes void

18. If the mortgagee shall fail to observe any of the mortgagee's covenants under the mortgage or any of the provisions of these Regulations in force at the time of the execution of the mortgage, the Authority's liability under the guarantee shall, unless the Authority shall otherwise determine, cease and the guarantee shall be void and of no effect.

Effect of assignment of mortgage debt by an approved mortgagee
Ch. 27 No. 12

19. (1) Where an approved mortgagee assigns the mortgage debt secured under an approved mortgage and conveys the mortgaged property to another person, whether as a result of the exercise by the mortgagee or an encumbrancer of the power conferred on him by section 33 of the Conveyancing and Law of Property Ordinance or otherwise, the Authority's liability under the guarantee entered into in respect of the repayment of such mortgage debt shall cease and the guarantee shall be void, unless—

- (a) the assignment of such debt and the conveyance of the mortgaged property were made to an approved mortgagee; or
- (b) the person to whom the assignment and conveyance were made permits the mortgage to be serviced by the Authority or, subject to such terms as the Authority may think fit, by an approved mortgagee.

(2) Regulation 18 shall apply in the case of any such assignment and conveyance as if the expression "the mortgagee" contained therein included a reference to the assignee of the interest of the mortgagee.

Reasonable care &c. to be exercised by approved mortgagee

20. (1) For the purpose of paragraph (a) of section 10 and subsection (3) of section 13 of the Act, an approved mortgagee shall exercise reasonable care and prudence in the administration of an approved mortgage and the collection and repayment thereof and it shall be satisfactory to the Authority and the approved mortgagee shall be deemed not to be negligent if it follows the practice and procedure which pertain to the approved mortgagee's general practice.

(2) If an approved mortgagee is negligent in the administration of an approved mortgage or the protection of the security, then the Authority may deduct from any sum payable under the Authority's guarantee given under Part II of the Act the amount of the damages sustained by the Authority as a result of such negligence.

(3) If the Authority and the approved mortgagee are unable to agree on the extent of such negligence or of the damages arising therefrom, then the matter shall be referred for arbitration to a sole arbitrator acceptable to the Authority and the approved mortgagee or if no sole arbitrator is acceptable to both parties, then to two arbitrators, one of whom shall be chosen by each party and an umpire to be chosen by the two arbitrators. The costs of the arbitration shall be borne as agreed between the parties or in default of such agreement as shall be determined in the arbitration award.

21. (1) A mortgage may, with the approval of the Authority, be expressed in a currency other than the currency of Trinidad and Tobago, and where this is the case, these Regulations shall apply *mutatis mutandis*. Expression of mortgage in foreign currency

(2) All monies payable by the mortgagor to an approved mortgagee or to an approved housing company shall be payable by the mortgagor in the currency in which the mortgage loan is expressed, or the equivalent in the currency of Trinidad and Tobago at the official rate prevailing in Trinidad and Tobago on the date on which payment is made.

(3) Nothing in this regulation shall prejudice the operation of any law in force in Trinidad and Tobago relating to foreign currency.

22. The insurance fee payable under section 14 of the Act is three per centum of the loan. Mortgage insurance fee

23. The Crown Solicitor shall be the Solicitor for the Authority, and the fees payable to him shall be those set forth in the Second Schedule. Crown Solicitor to be Solicitor of Authority Fees, Second Schedule

24. (1) Any sum payable by a Government employee to the Authority by virtue of the Act may be deducted by the paying authority concerned from the salary of such employee, but subject to any general or special directions which may be given by the Minister. Sums payable by employees

(2) No such deduction shall be made by a paying authority except in accordance with a certificate under the hand of the Secretary as to the amount payable and the date on which it is payable.

(3) Any sum deducted by a paying authority shall be paid to the Authority.

(4) In this regulation, "Government employee" includes an employee of a Statutory Corporation under the control of the Government.

25. (1) The Authority shall be deemed to be an approved mortgagee under the Act. Authority deemed to be an approved mortgagee

(2) The Authority shall act as an approved mortgagee in administering direct loans and shall, in the discretion of the Authority, apply the same remedies in the case of default as are described in these Regulations.

26. The National Housing Authority Regulations, 1962, are hereby repealed. 1962 Regulations repealed

FIRST SCHEDULE

(Regulation 3 (1))

FORM No. 1

NATIONAL HOUSING AUTHORITY REGULATIONS, 1969

APPLICATION FOR REGISTRATION AS A TRADER IN NEWLY
CONSTRUCTED DWELLING HOUSES

To: The National Housing Authority.

I,of
do hereby apply for registration as a trader in newly constructed dwelling houses and I
certify the statements made on this form by me are in all respects true and correct.

The application fee of \$10.00 is submitted herewith.

.....
Signature of Applicant

Date.....

How long have you been constructing dwelling houses for sale?

Give particulars of dwelling houses so constructed within the past twelve months.....
.....
.....

Are you carrying on the trade or profession of a builder?

Do you keep accounts in respect of such trade?

FORM No. 2

(Regulation 7 (2))

NATIONAL HOUSING AUTHORITY REGULATIONS, 1969

APPLICATION FOR UNDERTAKING

To: The National Housing Authority.

Pursuant to the provisions of regulation 7 of the National Housing Authority Regula-
tions, 1969 application is hereby made for an undertaking that the National Housing
Authority will enter into a guarantee with the parties hereto in respect of the repayment

of the sum of \$.....to be lent by the mortgagee to the mortgagor for the
purpose of purchasing*/constructing* the dwelling house particulars of which are set out
in the Schedule hereto.

The loan is to bear interest at the rate of.....per centum per annum and
will be repayable in.....years by equal monthly instalments of \$.....
covering principal and interest, and will be secured by an approved mortgage.

The applicants agree to furnish the Authority with such other information as the
Authority may require for the purposes of this application.

The application fee of \$.....is submitted herewith.

FORM No. 4

NATIONAL HOUSING AUTHORITY REGULATIONS, 1969

(Regulation 15 (1))

To: National Housing Authority.

Monthly notification of payments in default and/or failure to perform covenants or obligations.

For month ended.....19.....

Total payments in default over 30 days at date of last report \$..... Total payments in default over 30 days at this date (As listed below) \$.....
 (Number) (Amount) (Number) (Amount)

Particulars of payments in default and/or failure to perform covenants or obligations.

Reference Numbers	Name of Mortgagor (s)	Original Amount of Loan	Present Amount Outstanding	PAYMENT IN ARREARS		Details of nonperformance of covenants or obligations	Remarks
				No.	Amount		
		\$	\$		\$		
		TOTALS ...					

.....
 Mortgagee

SECOND SCHEDULE

(Regulation 23)

FEE PAYABLE TO THE CROWN SOLICITOR IN CONNECTION WITH THE SEARCHES, VERIFICATION OF TITLE, PREPARATION AND EXECUTION OF MEMORANDUM OF CHARGE AND OTHER INCIDENTAL MATTERS

	\$	c.
Where the amount borrowed does not exceed \$5,000	...	20 00
Where the amount borrowed exceeds \$5,000	...	40 00

Made by the National Housing Authority this 16th day of January, 1969.

IVAN A. WILLIAMS
Chairman

Approved by the Minister this 11th day of April, 1969.

ISABEL U. TESHEA
Minister of Housing