

HOUSING AND DEVELOPMENT ACT
(CHAPTER 129, SECTION 65(1))

HOUSING AND DEVELOPMENT (MORTGAGE TO LENDER)
RULES

ARRANGEMENT OF RULES

Rule

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[1st January 2003]

Citation

1. These Rules may be cited as the Housing and Development (Mortgage to Lender) Rules.

Definitions

2. In these Rules, unless the context otherwise requires —

“flat” means any flat, house or other building sold under Part IV of the Act which has been acquired by the present owner thereof whether directly from the Board or otherwise;

“lender” means any —

(a) bank that holds a licence under section 7 or 79 of the Banking Act (Cap. 19);

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(b) finance company licensed under the Finance Companies Act (Cap. 108);

(c) direct insurer registered under the Insurance Act (Cap. 142); or

- (d) merchant bank that holds a merchant bank licence, or is treated as having been granted a merchant bank licence, under the Banking Act;

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“mortgage” includes any charge on any flat for securing the repayment of any money lent to any person.

Terms and conditions applicable to mortgages

3. Subject to rule 5, where a flat is mortgaged to a lender as security for a loan which is disbursed on or after 1st January 2003, the Board shall, for the purposes of section 50 of the Act, be deemed to have granted its prior written consent to the mortgage subject to the following terms and conditions:

- (a) the mortgage shall be security solely for the repayment of a housing loan granted to the mortgagor to finance or re-finance the purchase of the mortgaged flat;
- (b) the mortgagee shall hold the mortgaged flat subject to the rights and powers of the Board under the Act (including these Rules and all other subsidiary legislation made under the Act) and the agreement for lease or lease entered into between the Board and the mortgagor, and shall comply with the policies of the Board that may from time to time be imposed;
- (c) the mortgagee shall not exercise its power of sale under the mortgage unless it has first granted an option to the Board or the Board’s nominee to purchase the mortgaged flat at an official sale price determined by the Board, and the option is not exercised within 2 months from the date it is granted;
- (d) the mortgagee, in exercising its power of sale, shall not sell the mortgaged flat to a purchaser unless the purchaser is first approved by the Board as a person eligible under its prevailing policies to purchase the mortgaged flat; and

- (e) the moneys received by a mortgagee in exercise of its power of sale, after discharge of prior encumbrances, shall be held by the mortgagee in trust to be applied —
- (i) firstly, in payment of all costs and expenses properly incurred by the mortgagee as incidental to the sale or any attempted sale, or otherwise;
 - (ii) secondly, in payment to the mortgagee of all moneys secured by the mortgage and in payment to the Central Provident Fund Board of all moneys secured by its charge constituted under section 21B of the Central Provident Fund Act (Cap. 36), in the order of priority specified in the regulations made by the Central Provident Fund Board;
 - (iii) thirdly, in payment to the Board of any resale levy imposed by it in respect of the mortgaged flat;
 - (iv) fourthly, in payment to the Board of all moneys secured by its charge on the mortgaged flat (if any) under section 65H of the Act for unpaid improvement contribution, and in payment to any Town Council established under the Town Councils Act (Cap. 329A) of all moneys secured by its charge on the mortgaged flat (if any), in the order of their priority;
 - (v) fifthly, in payment to —
 - (A) the Board of any unpaid improvement contribution under section 65D of the Act which is not secured by a charge on the mortgaged flat; and
 - (B) any Town Council of the conservancy and service charges and interest accrued and due at the date of sale which are not secured by a charge on the mortgaged flat,both payments to rank equally without preference;

- (vi) sixthly, in payment of subsequent mortgages and charges (if any) in the order of their priority;
- (vii) seventhly, in payment to the Board of all other moneys owed to it in respect of the mortgaged flat; and
- (viii) finally, the residue of such moneys so received shall be paid to the person who appears from the land-register kept under the Land Titles Act (Cap. 157) to be entitled to the flat sold or to be authorised to give receipts for the proceeds of the sale thereof.

Revocation of consent for certain mortgages

4. If a mortgagee fails to comply with any of the terms and conditions specified in rule 3 during the term of the mortgage of the flat, the written consent of the Board which is deemed to have been granted under that rule to the mortgagee in respect of the flat shall be deemed to be revoked immediately and treated as if it had never been granted.

Rule 3 not applicable to certain lenders

5. Where a lender is a mortgagee described in rule 4, the Board may, if it considers it desirable to do so by reason of the failure described therein, issue a written notice to the lender stating that rule 3 shall no longer apply to that lender in respect of any mortgage executed by that lender after the date of the written notice.

Condition applicable to sale of flat

6.—(1) Where a flat has been mortgaged to a lender on or after 1st January 2003 and the mortgagor seeks the consent of the Board to sell the flat, the Board may, in granting its consent under section 50 of the Act and without prejudice to any other condition that it may think fit to impose, impose the condition that the proceeds of sale of the flat shall be applied in the order of priority specified in rule 3(e).

(2) Paragraph (1) shall apply regardless of whether the mortgage is discharged at the time of the sale of the flat.

LEGISLATIVE HISTORY
HOUSING AND DEVELOPMENT (MORTGAGE TO LENDER)
RULES
(CHAPTER 129, R 10)

This Legislative History is provided for the convenience of users of the Housing and Development (Mortgage to Lender) Rules. It is not part of these Rules.

1. G. N. No. S 650/2002 — Housing and Development (Mortgage to Lender) Rules 2002

Date of commencement : 1 January 2003

2. 2004 Revised Edition — Housing and Development (Mortgage to Lender) Rules

Date of operation : 29 February 2004

3. G.N. No. S 438/2021 — Housing and Development (Mortgage to Lender) (Amendment) Rules 2021

Date of commencement : 1 July 2021