

Banking (Early Repayment of Housing Loans) Order, 5762–2002¹

By virtue of the power vested in me under Section 13 of the Banking Ordinance 1941 (hereinafter, “the Ordinance”), following consultation with the Committee, and with the approval of the Minister of Finance and the Knesset Finance Committee, I hereby order as follows:

Definitions

(Amendment [2014] 5774)

1. In this Order –

- “Prior notice” - Notice given by a borrower to a banking corporation of the borrower’s intention to make early repayment on a specific date;
- “Loan” - A loan granted by a banking corporation for the purchase of a residential dwelling or with the collateralization of a residential dwelling;
- “Foreign currency loan” - A loan denominated in or indexed to foreign currency;
- “Directed loan” - A loan granted under an arrangement with the government, the Jewish Agency, the World Zionist Organization, a local authority, or any of the companies listed in the First Addendum, whether granted from aforesaid entities’ deposits designated for granting loans or whether granted from the banking corporation’s sources;
- “Supplementary loan” - A loan other than a directed loan that is granted from the banking corporation’s sources to an individual eligible for a directed loan, in addition to the directed loan and for the same purpose, independent of the date on which the loan was granted;
- “Indexed loan” - A loan whose amount is indexed to the Consumer Price Index (CPI) published monthly by the Central Bureau of Statistics;
- “The Supervisor” - The Supervisor of Banks or any individual authorized thereby for the purpose of this Order;
- “Repaid amount” - The principal amount repaid by early repayment plus indexation or exchange-rate differentials, as the case may be, and interest, accrued to the early repayment date;
- “Early repayment” - Early repayment of the loan or part thereof, under Section 13 of the Ordinance;
- “Average interest rate” - The last known interest rate published by the Supervisor, notice of which was issued to the banking corporations, which was determined according to a calculation of the

¹ *Kovetz Hatakanot* 6179, 5762 (June 27, 2002), p. 915.

Amendment: *Kovetz Hatakanot* 7415, 5774 (August 27, 2014), p. 1705 (including change of name).

average weighted interest rate of loans that are not directed loans granted by banking corporations, or according to any other interest calculation, as determined by the Supervisor; Another determination of the interest calculation shall be brought before the Knesset Finance Committee for approval; The Supervisor may publish various average interest rates for different periods and different loan categories.

Directed Loan

2. A banking corporation shall not make early repayment of a directed loan conditional on payment of any fee.

Early repayment fee (Amendment 5774)

3. A banking corporation may make early repayment conditional on payment of the following fees:
 - (a) Operating fee not to exceed NIS 60;
 - (b) If the borrower gave prior notice of fewer than 10 days—a fee equal to one tenth of one percent of the repaid amount; However -
 - (1) If the banking corporation granted a loan for the purpose of the early repayment, no fee as stated in this paragraph shall be charged with respect to the **amount** of the new loan granted;
 - (2) If the borrower died, the fee stated in this paragraph will not be charged;
 - (c) If the average interest rate on the early repayment date is lower than the periodic interest rate that applies to the loan on the early repayment date – a fee not to exceed the entire difference between the future payments that the borrower wishes to discharge through early repayment, discounted to their present value on the early repayment date based on the average interest rate as at that date, and the said payments, discounted to their present value on the early repayment date based on the periodic interest rate that applies to the loan on the early repayment date; The fee in this paragraph shall be calculated according to the formula provided in item B in the Second Addendum;
 - (d) Notwithstanding the provisions of subparagraph (3), if the average interest rate on the loan grant date was lower than the periodic interest rate that applies to the loan on the loan grant date – a fee not to exceed the entire difference between the future payments that the borrower wishes to discharge through early repayment, discounted to their present value on the early repayment date according to the average interest rate as at that date, and the said payments, discounted to their present value on the early repayment date according to the average interest rate on the loan grant date; The fee in this paragraph shall be calculated according to the formula provided in Item B of the Second Addendum; If the average interest rate as at the loan grant date was not

published, the periodic interest that applies to the loan on the loan grant date shall be deemed the average interest rate as at the loan grant date;

- (e) A banking corporation may charge a fee that is the lower of the fee as stated in subsection (3) or the fee, if any, as stated in subsection (4).

Variable Rate Loans (Amendment 5774)

- 4. For a loan whose chargeable interest rate varies over the loan period, and the variable interest rate is not known at the time the loan is granted —
 - (a) For the purpose of calculating the fee as stated in Section 3(3) and Section 3(4), the outstanding principal on the date on which a new interest rate applies or may apply shall be considered the final future payment in the future stream of payments that the borrower wishes to repay;
 - (b) If the dates on which the interest rates vary are not known in advance, or if they are known in advance but are determined to vary annually or more frequently, no fee as stated in Section 3(3) shall be charged;
 - (c) If repayment is made on a date on which the interest changes, only a fee as stated in Section 3(1) shall be charged;
 - (d) For the purpose of the formula provided in Item B of the Second Addendum and for the purpose of Section 7(c), the average interest rate on the most recent date of interest rate change shall be considered the average interest rate on the loan grant date.

Indexed Loan

- 5. In a CPI-indexed loan – If early repayment is made between the first and the fifteenth day of any month, the banking corporation may charge, in addition to the fees under Section 3, a fee equal to the repaid amount multiplied by one half of the average rate of change in the CPI over the twelve most recent CPIs published prior to the repayment date.

Foreign Currency Loan

- 6. In a foreign currency loan —If the borrower gave advance notice of less than two business days, the banking corporation may, in addition to the fees under Section 3, stipulate that the early repayment is conditional upon [payment of] a fee equal to the exchange rate differential between the foreign currency exchange rate on the date on which early repayment is made and the foreign currency exchange rate two business days thereafter; For the purpose of this section, a business day is any day on which foreign currency trading takes place in Israel and overseas.

**Discounting rules
(Amendment 5774)**

7.

- (a) If several average interest rates were determined for different periods, the fee stated in Section 3(3) and in Section 3(4) shall be calculated according to the average interest rate for the period remaining until the final loan repayment date, and in the event stated in Section 4—for the period remaining until one day before the date on which a new interest rate applies or may apply.
- (b) If the average interest rate on the early repayment date is higher than the interest rate on the loan on the early repayment date, a calculation shall be performed as stated in Section 3(3), and the balance of the discounted amount shall be set off from the amounts stated in Sections 3 and 5.
- (c) Notwithstanding the provisions of subsection (b), for the purpose of Section 3(4) – if the average interest rate on the loan grant date is lower than or equal to the average interest rate on the early repayment date, a calculation as stated in Section 3(4) shall be performed, and the balance of the discounted amount shall be set off from the amounts stated in Sections 3 and 5.

**Deductions
(Amendment 5774)**

8.

- (a) In the case of a supplementary loan, the fee according to Section 3(3) or Section 3(4) shall be reduced by the following rates:
 - (1) If early repayment is made at the end of one year or more, but less than two years, from the loan grant date – 10% of the fee amount;
 - (2) If early repayment is made at the end of two years or more, but less than three years, from the loan grant date – 20% of the fee amount;
 - (3) If early repayment is made at the end of three years or more, but less than four years, from the loan grant date – 30% of the fee amount;
 - (4) If early repayment is made at the end of four years or more, but less than five years, from the loan grant date – 40% of the fee amount;
- (b) In any event other than subsection (a), the fee according to Section 3(3) or according to Section 3(4) shall be reduced by the following rates:
 - (1) If early repayment is made at the end of three years or more, but less than five years from the loan grant date – 20% of the fee amount;
 - (2) If early repayment is made at the end of five years or more from the loan grant date – 30% of the fee amount.

**The Supervisor's Authority
(Amendment 5774)**

9.

- (a) The Supervisor shall determine the manner in which discounting for the purpose of Section 3(3) and Section 3(4) shall be calculated, and notice of this shall be delivered to the banking corporations.
- (b) The Supervisor may from time to time revise the amount stated in Section 3(1) according to changes in the CPI; Notice of the revised amount shall be published in the Gazette of Record [*Reshumot*].

**Prior Notice
(Amendment 5762)**

10.

- (a) Prior notice shall be given in one of the following manners:
 - (1) By delivery in writing to the branch of the banking corporation;
 - (2) By dispatch by mail, and the prior notice is considered to have been made on the date it is received by the banking corporation; and by registered mail – three days after the dispatch date;
 - (3) By fax;
 - (4) By other means of communication proposed by the banking corporation, at the customer's request.
- (b) Prior notice shall not be given more than 45 days before the date determined by the borrower as the early repayment date.

Failure to Make Early Repayment

11. If the borrower delivered an advance notice and failed to act upon it, no other prior notice given by the borrower regarding early repayment of the same loan shall be considered for the purpose of calculating the fee for a period of six months from the early repayment date determined in the first notice.

**Term Sheet
(Amendment 5762)**

12.

- (a) A banking corporation shall give a term sheet to a borrower, both when granting the loan, and when the borrower requests early repayment, and after early repayment has been made; If advance notice is delivered as set forth in Section 10(a)(1), the banking corporation shall have the borrower sign a document confirming that the borrower received the term sheet.
- (b) For the purpose of this section, "term sheet" – a document that clarifies the meaning of Section 13 of the Ordinance and the Order issued thereunder, as follows:

- (1) The term sheet delivered to the borrower at the time the loan is granted shall include the following details, among others:
- a. Clarification regarding the option of giving prior notice of ten days prior to the repayment date, and the ramifications of failure to give such notice;
 - a1. Contact details of the banking corporation for the purpose of giving prior notice in each of the modes listed in Section 10(a);
 - b. All types of early repayment fees that the borrower may be liable for when making early payment, including the deduction rates according to this Order and the loan agreement;
 - c. Examples that illustrate to the borrower the amount of the early repayment fee under Section 3, as a function of the time remaining until final repayment of the loan, and of the differential between the contractual interest rate and the average interest rate;
 - d. For a foreign currency loan – the term sheet shall include, in addition to the provisions of subparagraphs A through C, clarification regarding the significance of giving prior notice of less than two business days, including the practical implications of the actual timing of the early repayment, in contrast to the timing of the payment of the fee under Section 6.
- (2) The term sheet that is given to the borrower upon a request to make early repayment shall include the following details, among others:
- a. All types of early repayment fees that are charged by the banking corporation to the borrower, and their amounts, insofar as such amounts may be known in advance, including the deduction rates and their amounts according to this Order and the loan agreement;
 - i. Clarification regarding the option of giving prior notice of ten days before the repayment date and the implications of failure to give such notice;
 - ii. Contact details of the banking corporation for the purpose of giving advance notice, in each of the means listed in section 10(a).
 - b. In a foreign currency loan – the term sheet shall also include clarification regarding the practical significance of the actual timing of the early repayment, in contrast to the timing of the payment of the fee under Section 6.

- (c) Within 60 days from the date that early repayment is made, the banking corporation shall deliver to the borrower a term sheet that lists the components of the early repayment fees charged to the borrower and their amounts, including the actual deduction rates and their amounts under this Order and the loan agreement, and for a foreign currency loan – also the borrower’s outstanding debt to the banking corporation due to the fee stated in Section 6, to the extent that such debt was created, and the implications of failure to make timely repayment of said debt balance.

Revocation

13. The Banking (Early Repayment Fees) Order, 5742-1981, is revoked.

Commencement

14. This Order shall come into force on the 26th day of Heshvan 5763 (November 1, 2002).

First Addendum

(Amendment 5774)

Section 1

1. “Halamish” – Government-Municipal Company for Housing Renewal Ltd. (Tel Aviv)
2. “Prazot” – Government-Municipal Company for Housing Ltd. (Jerusalem)
3. “Shikmona” – Government-Municipal Company for Housing Renewal in Haifa Ltd.
4. “Amigur” – Asset Management Ltd.
5. “Heled” – Government-Municipal Company for Housing Renewal in Petah Tikva Ltd.
6. “Amidar” – National Company of Israel for New Immigrant Housing Ltd.

Second Addendum

(Amendment 5774)

(Section 3(3) and Section 3(4))

A. Definition of terms

“A” – The average periodic interest rate on the early repayment date, as defined in Section 1 of this Order;

“C” – The average periodic interest rate on the loan grant date, as defined in Section 1 of this Order;

“R” – The periodic interest rate on the loan on the early repayment date;

“B_i” – The future periodic payments according to the terms of the loan, including accrued interest;

“i” – Index indicating the period;

“n” – The number of periods from the early repayment date until the interest change date;

“N” – The number of periods from the early repayment date until the end of the loan period;

“PV” – The amount of principal that is paid in the early repayment plus indexation differentials or exchange rate differentials, and interest accrued to the early repayment date;

“PV(A)” – The present value of the future payments until the end of the loan period, where the payments until the interest change date and the principal on the interest change date are discounted to the early repayment date according to the average interest rate on the early repayment date;

“PV(C)” – The present value of the future payments until the end of the loan period, where the payments until the interest change date and the principal on the interest change date are discounted to the early repayment date according to the average interest rate on the loan grant date.

B. The formula

Section 3(3) - Fee calculated according to a 100% economic loss resulting from early repayment:

$$PV(A) - PV = \left[\sum_{i=1}^n \frac{B_i}{(1+A)^i} + \frac{1}{(1+A)^n} \sum_{i=1}^{N-n} \frac{B_{i+n}}{(1+R)^i} \right] - \left[\sum_{i=1}^n \frac{B_i}{(1+R)^i} + \frac{1}{(1+R)^n} \sum_{i=1}^{N-n} \frac{B_{i+n}}{(1+R)^i} \right]$$

Section 3(4) -

$$PV(A) - PV(C) = \left[\sum_{i=1}^n \frac{B_i}{(1+A)^i} + \frac{1}{(1+A)^n} \sum_{i=1}^{N-n} \frac{B_{i+n}}{(1+R)^i} \right] \\ - \left[\sum_{i=1}^n \frac{B_i}{(1+C)^i} + \frac{1}{(1+C)^n} \sum_{i=1}^{N-n} \frac{B_{i+n}}{(1+R)^i} \right]$$

Notes:

The principal on the interest change date is:

$$\sum_{i=1}^{N-n} \frac{B_{i+n}}{(1+R)^i}$$

If $N = n$ (that is, if there is no change in the interest rate until the end of the loan period), the second term in all bracketed terms should be ignored (that is, we assume that the principal equals zero on the interest change date).

The formula is also suitable for loans whose payments are made at regular intervals (even if the payments are not equal) and for loans whose payments are made at irregular intervals (for example, if the period is defined as one month, the formula for a loan that is repaid in intervals of complete months can be applied, even if the intervals are not equal, such as if loan payments are alternately made once a month and once every three months).

C. Partial early repayment

- (1) In the event of partial early repayment, in which specific periodic payments are made (such as: the loan term is reduced by making early repayment of the final payments), the banking corporation may calculate the fee according to the formula, in respect of the economic loss it incurs as a result of the payments that were advanced, or, alternatively, may be calculated as the proportionate part of the fee in respect of a full repayment of the loan;
- (2) In partial early repayment in which the periodic payments are reduced but the original loan term remains unchanged, the banking corporation will calculate the fee according to the formula, as the proportionate part of the fee in respect of a loan that is repaid by early repayment.

1 Tamuz, 5762 (June 11, 2002).

David Klein

Governor of the Bank of Israel