

STATUTORY CONDITIONS (Prince Edward Island)

The conditions set forth in this section shall be deemed to be part of every contract in force and shall be printed with every policy with the heading "Statutory Conditions", and no variation or omission of or addition to any statutory condition is binding on the Insured.

1. Misrepresentation

If any person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance which is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract shall be void as to any property in relation to which the misrepresentation or omission is material.

2. Property of others

Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the contract.

3. Change of interest

The insurer shall be liable for loss or damage occurring after an authorized assignment under the *Bankruptcy Act* (Canada) R.S.C. 1985, Chap. B-3 or change of title by succession, by operation of law, or by death.

4. Material change

Any change material to the risk and within the control and knowledge of the insured shall avoid the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent; and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium; and in default of such payment the contract shall no longer be in force and the insurer shall return the unearned portion, if any, of the premium paid.

5. Termination of contract

(1) This contract may be terminated

- (a) by the insurer giving to the insured fifteen days notice of termination by registered mail, or five days written notice of termination personally delivered;
- (b) by the insured at any time on request.

Termination by insurer

(2) Where this contract is terminated by the insurer

- (a) the insurer shall refund the excess of premium actually paid by the insured over the proportional premium for the expired time, but in no event shall the proportional premium for the expired time be deemed to be less than any minimum retained premium specified; and
- (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.

Termination by insured

(3) Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but, in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.

Refund, how payable

(4) The refund may be made by money, postal or express company money order, or by cheque payable at par.

Notice

(5) The fifteen days mentioned in clause (1)(a) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

6. Requirements after loss

- (1) Upon the occurrence of any loss of or damage to the insured property, the insured shall, if such loss or damage is covered by the contract, in addition to observing the requirements of Conditions 9, 10 and 11,
 - (a) forthwith give notice thereof in writing to the insurer;
 - (b) deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration
 - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
 - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,
 - (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) showing the amount of other insurances and the names of other insurers,
 - (v) showing the interest of the insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
 - (vi) showing any change in title, use, occupation, location, possession or exposures of the property since the issue of the contract,
 - (vii) showing the place where the property insured was at the time of loss;
 - (c) if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;
 - (d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.

Idem

- (2) The evidence furnished under clauses (1)(c) and (d) of this Condition shall not be considered proofs of loss within the meaning of Conditions 12 and 13.

7. Fraud or wilfully false statement

Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, shall vitiate the claim of the person making the declaration.

8. Who may give notice and proof

Notice of loss may be given, and proof of loss may be made, by the agent of the insured named in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

9. Salvage

- (1) The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to any such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.

Contribution by insurer

- (2) The insurer shall contribute in proportion towards any reasonable and proper expenses in connection with steps taken by the insured and required under subsection (1) of this condition according to the respective interests of the parties.

10. Entry, control, abandonment

After any loss or damage to insured property, the insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer is not entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

11. Appraisal

In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under this Act before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions; there shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

12. When loss payable

The loss shall be payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

13. Replacement

- (1) The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.

Commencement of repair

- (2) In that event, the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

14. Limitation of action

Every action or proceeding against the insurer for the recovery of any claim under or by virtue of this contract shall be absolutely barred unless commenced within one year next after the loss or damage occurs.

15. Notice, delivery

- (1) Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the province; written notice may be given to the insured named in this contract by letter personally delivered to him or by registered mail addressed to him at his latest known post office address as notified to the insurer.

Registered, defined

- (2) In this condition, the expression "registered" means registered in or outside Canada.