Nova Scotia Farm Loan Board Regulations

made under Section 8 of the

Agriculture and Rural Credit Act

R.S.N.S. 1989, c. 7

O.I.C. 92-1162 (December 1, 1992), N.S. Reg. 248/92

as amended up to O.I.C. 2011-110 (March 25, 2011, effective April 1, 2011), N.S. Reg. 48/2011

1 These regulations may be cited as the Nova Scotia Farm Loan Board Regulations.

Section 1 added: O.I.C. 2002-600, N.S. Reg. 161/2002.

1A In these regulations

(a) "Act" means the Agriculture and Rural Credit Act;

(b) "agri-rural business" means a business involved in any of the following:

(i) the production of an agricultural commodity,

(ii) further processing of agricultural products, or

(iii) any other business of economic benefit to the agricultural industry and rural Nova Scotia;

(c) "Board" means the Nova Scotia Farm Loan Board;

(d) "borrower" means an individual, a partnership or company operating or intending to operate a farm or agri-rural business recognized by the Board;

(e) "company" means a company incorporated under the Nova Scotia Companies Act or which is federally incorporated, a majority of the shares of which are beneficially held by residents of Nova Scotia and which owns or will own as a result of a loan by the Board, real property in Nova Scotia and is engaged in or will be engaged in as a result of a loan by the Board, an agri-rural business recognized by the Board;

(ea) “Hog Loan Support Program” means the short term loan program established to provide financing from the Board to hog producers that terminates in accordance with Section 16;

Clause 1A(ea) added: O.I.C. 2002-600, N.S. Reg. 161/2002.

(f) “Minister” means the Minister of Agriculture;

(g) “partnership” means a partnership of two or more persons who own or will own as a result of a loan by the Board, real property in Nova Scotia and are engaged in or will be engaged in as a result of a loan by the Board, an agri-rural business recognized by the Board.

Section 1 replaced: O.I.C. 97-254, N.S. Reg. 44/97; renumbered 1A: O.I.C. 2002-600, N.S. Reg. 161/2002.

2 Every request for a loan shall be made on the Board's application form and signed by the applicant or applicants and their respective spouses if applicable.

3 Every partnership loan requires a signed copy of a partnership agreement acceptable to the Board.

4 (1) Every application for a loan from a company shall be accompanied by a list showing the shareholders, directors and officers of the company and the type and number of shares authorized and issued.

(2) When a loan to a company is approved, the loan will be finalized when the company files with the Board

(a) a certificate from the Registrar of Joint Stock Companies showing the status of the company to the satisfaction of the Board;

(b) a copy of a Special Resolution, certified by the Registrar of Joint Stock Companies, authorizing the borrowing; and

(c) a copy of the shareholders agreement, except where all shares are held by one shareholder.

Clause 4(2)(c) amended: O.I.C. 95-503, N.S. Reg. 98/95.

5 (1) Every application for a loan shall be accompanied by an application fee as follows:

(a) subject to clause (b), ¼ of 1% of the amount of the loan subject to a minimum fee of $343.00 plus applicable taxes and a maximum fee of $1143.36 plus applicable taxes;

Clause 5(1)(a) amended: O.I.C. 2011-110, N.S. Reg. 48/2011.

(b) for loans of $1 000 000 or more, $1371.39 plus applicable taxes,

Clause 5(1)(b) amended: O.I.C. 2011-110, N.S. Reg. 48/2011.

25 percent of which may be refunded if the application is not approved.

Subsection 5(1) replaced: O.I.C. 97-254, N.S. Reg. 44/97.

(2) The Board shall estimate the legal costs to close a transaction and the Board may include that amount as part of the loan.

Subsection 5(2) replaced: O.I.C. 95-503, N.S. Reg. 98/95.

(3) If an application for a loan is processed and prior to completion the request is withdrawn by the applicant, the applicant shall be liable for all legal fees incurred by the Board and if the applicant does not pay the fees, the Board may pay the fees and recover the fees with costs from the applicant in any court of competent jurisdiction by action by the Board.

(4) The Board may establish guidelines for and the manner in which loan applications may be processed by staff.

(5) The following service fees may be charged by the Board:

(a) $33.93 plus applicable taxes for NSF cheques;

Clause 5(5)(a) amended: O.I.C. 2011-110, N.S. Reg. 48/2011.

(b) 1/8 of 1% of the loan balance subject to a minimum fee of $228.67 and a maximum fee of $343.00 plus applicable taxes and legal fees, for reamortization of accounts;

Clause 5(5)(b) amended: O.I.C. 2011-110, N.S. Reg. 48/2011.

(c) $113.11 plus applicable taxes for the preparation of deeds, mortgages, agreements of sale, chattel mortgages, leases or other related documents;

Clause 5(5)(c) amended: O.I.C. 2011-110, N.S. Reg. 48/2011.

(d) $56.55 per hour plus applicable taxes for preparation of detailed financial statements, search of legal records and provision of statistical data.

Clause 5(5)(d) amended: O.I.C. 2011-110, N.S. Reg. 48/2011.

Subsection 5(5) added: O.I.C. 95-503, N.S. Reg. 98/95; replaced: O.I.C. 97-254, N.S. Reg. 44/97.

6 (1) The terms of every loan secured by real property shall require the borrower to provide for payment of insurance premiums for insurance against fire and other casualties as required by the Board and the payment of provincial and municipal rates and taxes applicable to the secured property.

(2) Every such policy of insurance shall contain a mortgagee endorsement in favour of the Board and shall be for such minimum amounts as the Board may determine but the borrower may place coverage beyond the minimum amount required by the Board.

7 Before the Board grants a loan on the security of real property or chattels, there shall be an appraisal of the value of the real property or chattels acceptable to the Board, and the valuation shall provide the basis for determining the amount of the loan which may be granted.

Section 7 replaced: O.I.C. 97-254, N.S. Reg. 44/97.

8 (1) Where a borrower obtains additional funds at an interest rate different from that charged on existing indebtedness to the Board, and the total indebtedness to the Board is combined in one principal balance with one repayment schedule, the borrower shall be charged a composite rate of interest per annum equal to the nearest 1/8 percent on the resulting total balance.

(2) The Board may transfer the balance of an existing loan of a partnership or company at the interest rate and other terms applicable to that loan where the partnership or company is dissolved and where one or more of the partners or shareholders will continue as the borrower.

(3) The Board may transfer to a corporation the balance of an existing loan of an individual or a partnership at the interest rate and on other terms applicable to that loan where the individual or partnership form a corporation to include the assets held by the Board as security for the loan.

9 (1) The Board may make a loan to a borrower with

(a) a fixed interest rate for an amortization period to a maximum of 30 years with the loan of the same term; or

(b) the interest rate fixed for a specified term of years with an amortization period to a maximum of 30 years.

(2) A borrower may prepay the whole or any part of a loan, subject to payment of an amount equal to the greater of 3 months' interest at the interest rate on the loan balance, or an interest differential on the amount of the prepayments to a maximum term of 5 years equal to the loan balance outstanding multiplied by the amount by which the interest rate on the loan exceeds the interest rate for new loans of a similar type and remaining term multiplied by the number of years remaining in the 5-year term.

(3) A borrower may increase the payment of principal and interest once in each year during the term of the loan, provided that such increase does not exceed 10% of the amount of the instalment.

(4) Where the loan is dated on or before April 1, 1997 and at the request of the borrower, the Board may replace an existing loan with a new loan,

(a) subject to the interest payable pursuant to subsection (2); and

(b) subject to the existing loan agreement with the borrower,

and the Board may require an additional payment of 3 months' interest at the loan rate to a maximum of $2000.

(5) The Board may defer payment of principal, interest and other accruals for such length of time as the Board considers necessary to permit a borrower to establish a business, and the deferrals will be capitalized.

(6) A borrower may, once in each calendar year, pay down the principal of the loan without payment of interest, provided that the payment does not exceed 10 percent of the original amount of the loan.

(7) The Board may, in its discretion, accept a payment in excess of 10 percent without interest in recognition of special and unforeseen circumstances, which shall be limited to recovery of fire insurance proceeds on secured assets or from life insurance on the death of an insured borrower.

Section 9 replaced: O.I.C. 97-254, N.S. Reg. 44/97.

10 The Board may make a loan to a borrower for the purpose of providing assistance in the purchase or development of a farm operation within the intent of the Act.

(1) The Board shall not grant a loan to a borrower where the total obligation to the Board exceeds $2 000 000 except with the approval of the Governor in Council.

Subsection 10(1) amended: O.I.C. 95-503, N.S. Reg. 98/95; O.I.C. 97-254, N.S. Reg. 44/97; O.I.C. 2004-56, N.S. Reg. 15/2004.

(2) Where the Governor in Council approves the granting of a loan under subsection (1), the amount in excess of $1 000 000 shall bear interest at a rate specified in Section 13.

Subsection 10(2) replaced: O.I.C. 95-503, N.S. Reg. 98/95.

(3) Despite subsection (1), a loan approved by the Board under the Hog Loan Support Program does not require Governor in Council approval even if the total obligation of the borrower to the Board exceeds $1 000 000.

Subsection 10(3) added: O.I.C. 2002-600, N.S. Reg. 161/2002.

Section 10 amended: O.I.C. 97-254, N.S. Reg. 44/97.

11 Every loan made by the Board shall be repaid within a period of years not greater than 30.

Section 11 amended: O.I.C. 97-254, N.S. Reg. 44/97.

12 Every loan to a company may be secured by the personal guarantee of the shareholders as required by the Board, in addition to any other security that the Board may determine.

13 (1) The pricing policy to establish the Board’s interest rates shall be developed by the Board and approved by the Minister based on the average quarterly commercial loan rates for the relevant term obtained from three or more institutions as determined by the Board and shall be adjusted by

(a) business risk factors, including debt servicing capacity, security and management;

(b) development policy factors of the Department of Agriculture and the Board.

(2) The minimum interest rate shall be the all in government cost of borrowing plus 0.50 percent for the relevant term including the prepayment options outlined in subsections 9(2), (3), (6) and (7).

Section 13 replaced: O.I.C. 97-254, N.S. Reg. 44/97.

14 Every realty security document securing a loan made under these regulations shall contain covenants that

(a) the borrower shall repay the loan by weekly, bi-weekly, semi-monthly, monthly, bi-monthly, quarterly, semi-annually or yearly, blended principal and interest payments amortized for the term approved and the payments shall be made at the dates, times and place set out in the security document;

(b) the borrower will not remove any gravel, fill or forest products from the property without first having obtained the written permission of the Board; and

(c) the borrower will, at the request of the Board, provide a copy of the annual financial statements of the business.

Section 14 amended: O.I.C. 97-254, N.S. Reg. 44/97.

15 (1) Subject to Section 10, the Board may lend an amount up to 90 percent of the appraised value of real property and chattels securing the loan.

Subsection 15(1) amended: O.I.C. 97-254, N.S. Reg. 44/97.

(2) Despite subsection (1) the Board may lend additional funds based on its assessment of the managerial ability of the borrower and the ability of the operation to repay the loan, and its assessment of the value of other security items including marketing quotas.

16 The Hog Loan Support Program has a maximum available capital of $4 000 000 and is in effect until

(a) August 31, 2003;

(b) the full loan capital is utilized; or

(c) the market price on hogs on a per hog basis reaches $145,

whichever is earliest.

Original Section 16 repealed: O.I.C. 97-254, N.S. Reg. 44/97; Section 16 added: O.I.C. 2002-600, N.S. Reg. 161/2002.

Section 17 repealed: O.I.C. 97-254, N.S. Reg. 44/97.

Section 18 repealed: O.I.C. 97-254, N.S. Reg. 44/97.

[Note: references to the Minister and Department of Agriculture and Marketing have been updated throughout in accordance with Order in Council 2006-121 under the Public Service Act, R.S.N.S. 1989, c. 376, effective February 24, 2006.]

Last updated: 16-11-2011