

Timber Loan Board Regulations
made under subsection 20(4) of the
Forests Act
R.S.N.S. 1989, c. 179
O.I.C. 2020-264 (effective October 6, 2020), N.S. Reg. 141/2020

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Please note: this table of contents is provided for convenience of reference and does not form part of the regulations.

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Citation

1 These regulations may be cited as the *Timber Loan Board Regulations*.

Definitions

2 In these regulations,

“applicant” means an applicant for a loan;

“Board” means the Timber Loan Board;

“borrower” means an individual, partnership or corporation that has been granted a loan;

“forest industry” means an individual, partnership or corporation engaged in, or directly supporting, 1 or more of the subsectors of forest management and forest harvesting or the manufacturing of solid wood products, pulp and paper products or other forest-based products;

“loan” means a loan made by the Board under the *Forests Act* and these regulations;

“partnership” means a partnership as defined in the *Partnership Act*.

Purpose of loan

- 3** (1) A loan, including a guarantee of a loan, may be for any purpose relating to the forest industry in the Province, including any of the following:
- (a) to acquire, develop or improve a forestry operation, a plant, machinery, buildings or equipment;
 - (b) to acquire, develop or improve real or personal property that is used or intended to be used in a forestry-related business;
 - (c) to make loans to a borrower for the purpose of paying out or refinancing that borrower’s existing loans;
 - (d) to provide working capital for a business in the forest industry;
 - (e) any other purpose that is in accordance with the object and purpose of the Board.
- (2) The Board must not make a loan guarantee for the purpose of replacing existing financing.
- (3) The Board may set policies and priorities for loans and loan guarantees.

Eligibility for loan

- 4** To be eligible for a loan,
- (a) an individual must meet all of the following requirements:
 - (i) be a Canadian citizen or able to satisfy the Board of their intention to become a Canadian citizen,
 - (ii) be at least 19 years old at the time of their loan application,

- (iii) have adequate experience, training or education in the forest industry,
 - (iv) be able to adequately protect the assets to be used as security for the loan during the term of the loan, including by obtaining and keeping insurance as required by Section 11;
- (b) a partnership must have a representative who satisfies the requirements for an individual in clause (a);
- (c) a corporation must meet all of the following requirements:
 - (i) be in good standing under the laws of the jurisdiction in which it was incorporated,
 - (ii) be registered with the Nova Scotia Registry of Joint Stock Companies,
 - (iii) commit to not transfer voting control in whole or in part during the term of the loan without prior written notice to the Board,
 - (iv) its officers, directors, employees or agents have adequate experience, training or education in the forest industry,
 - (v) be able to adequately protect the assets to be used as security for the loan during the term of the loan, including by obtaining and keeping insurance as required by Section 11.

Applying for loan

5 An applicant must submit all of the following to the Board:

- (a) the application fee, calculated in accordance with Section 7;
- (b) a statement of the purpose of the loan;
- (c) a business plan in a form acceptable to the Board;
- (d) complete details of the costs relating to the loan, including appropriate quotations from any suppliers or contractors;
- (e) the applicant's written agreement to obtain and keep insurance on the assets to be used as security for the loan on terms satisfactory to the Board and to assign the insurance to the Board, if applicable;
- (f) for an application by an individual, a signed statement of assets and liabilities;

- (g) audited financial statements or financial statements satisfactory to the Board;
- (h) for an application by a partnership,
 - (i) the full name of each of the partners, together with a statement of each partner's interest in the partnership, and
 - (ii) a signed partnership agreement in a form acceptable to the Board;
- (i) for an application by a corporation,
 - (i) the names of its officers and directors,
 - (ii) the names of all persons who have subscribed for shares, with a statement showing the amount paid up on all shares authorized or issued,
 - (iii) a certified copy of a special or extraordinary resolution of its shareholders authorizing it to borrow money, and
 - (iv) evidence that it is in good standing, issued by the Registrar of Joint Stock Companies or an equivalent authority in the jurisdiction in which it was incorporated;
- (j) any additional information that the Board requires to assess the application.

Processing applications

- 6** The Board may establish guidelines for the manner in which loan applications are to be processed by staff.

Application fee and legal costs

- 7** (1) The application fee for a loan is as set out in the following table:

Loan amount	Fee (plus applicable taxes)	
up to \$5 000 000	0.25% of the amount of the loan being applied for	minimum fee: \$400
		maximum fee: \$2000
\$5 000 000 and over	\$3000	

- (2) The Board may include the legal costs to close a transaction in the loan amount.

- (3) If an application is processed, but is withdrawn by the applicant before completion, the applicant is liable for all legal costs incurred by the Board in processing the application.
- (4) If an application is not approved, the Board may refund 25% of the application fee to the applicant.

Appraisal

- 8** (1) The Board may at any time require the appraisal of any assets used to secure a loan to determine the sufficiency of the Board's security.
- (2) The borrower is responsible for the cost of any appraisal required by the Board under subsection (1).

Loan limit

- 9** (1) Except as provided in subsection (2), the maximum amount of a loan is 90% of the appraised value of the assets securing the loan.
- (2) The Board may lend additional funds to a borrower based on the Board's assessment of the managerial ability of the borrower, the ability of the forestry operation to repay the loan and the value of other security items.

Loans requiring Governor in Council approval

- 10** The Board must not grant a loan that would result in the borrower's total obligation to the Board exceeding \$5 000 000 except with the approval of the Governor in Council.

Insurance

- 11** A borrower must obtain and keep insurance on terms satisfactory to the Board on the assets to be used as security for the loan and must assign the insurance to the Board.

Security

- 12** (1) The Board may take any security or guarantee that it considers appropriate for any loan and enforce the security or guarantee in accordance with its terms and conditions, or release the security or guarantee on terms and conditions specified by the Board.
- (2) The Board may make any payments necessary to protect the security of a loan, and the borrower is liable for any amounts paid by the Board under this subsection.
- (3) In enforcing security held under this Section, the Board may do any of the following:
- (a) advance money to a receiver;

- (b) guarantee the accounts of a receiver;
 - (c) pay or guarantee a payroll of a borrower in default under the security;
 - (d) expend money in attracting a person to revive, take over or re-establish a borrower's business.
- (4) It is a term and condition of each loan that the Board may add to the amount of the loan the amount of any fees and expenses incurred by the Board to register any security the Board requires for the loan.

Security document

13 Each security document securing a loan must contain all of the following covenants:

- (a) that the borrower will repay the loan in accordance with the following, all to be specified in the security document:
 - (i) the amortization period and interest rate,
 - (ii) the payment schedule, specifying whether the loan payments are to be made weekly, bi-weekly, semi-monthly, monthly, bi-monthly, quarterly, semi-annually or yearly,
 - (iii) the dates and times when and place where loan payments are to be made;
- (b) that the borrower will not remove any gravel, fill or forest products from the secured property without the prior written permission of the Board;
- (c) that the borrower will keep all secured property, both real and personal, including improvements to the property, in good condition and state of maintenance and repair;
- (d) that the borrower will maintain and comply with all relevant standards and requirements for the secured property, including any relevant registrations, inspections and licences;
- (e) that the borrower will not take any action that may devalue the secured property without the prior written permission of the Board;
- (f) that, if required by the Board, the borrower will provide the Board with detailed financial statements covering the borrower's operations and any additional information about their operations that the Board specifies, including copies of personal or corporate tax returns.

Combining or transferring loan

- 14**
- (1)** If a borrower obtains additional funds from the Board at an interest rate different from that charged on existing indebtedness to the Board, the total indebtedness to the Board may be combined into 1 principal balance with 1 repayment schedule at the composite interest rate.
 - (2)** If a borrower that is a partnership or corporation is dissolved and 1 or more of its partners or shareholders will continue as the borrower, the Board may transfer the balance of the existing loan at the interest rate and on the same terms and conditions that applied to the existing loan.
 - (3)** If a borrower that is an individual or partnership forms a corporation to include the assets held by the Board as security for the loan, the Board may transfer the balance of the existing loan to the corporation at the interest rate and on the same terms and conditions that applied to the existing loan.
 - (4)** The Board may require a party to a loan transfer under subsection (2) or (3) to provide any information or submit any documentation that the Board considers necessary to complete the transfer.

Interest rate, terms and amortization

- 15**
- (1)** Subject to any deferral or adjustment under subsection (4), the interest rate, amortization period and term of a loan must be established in accordance with 1 of the following options:
 - (a)** a fixed interest rate for an amortization period to a maximum of 30 years with the loan of the same term;
 - (b)** a fixed interest rate for a specified term of years with an amortization period to a maximum of 30 years;
 - (c)** a variable interest rate for a specified term of years with an amortization period to a maximum of 30 years.
 - (2)** A loan may be
 - (a)** open for prepayment at any time during the term of the loan; or
 - (b)** a closed-prepayment loan in accordance with Sections 16 and 17.
 - (3)** The Board may reduce the amortization period of a loan if, in the opinion of the Board, conditions warrant the reduction.
 - (4)** The Board may defer or adjust payment of principal, interest and other accruals for any length of time the Board considers necessary
 - (a)** to permit the borrower to establish a business; or

- (b) to permit the borrower's business to recover, if the business is suffering economic hardship as a result of reduced income.
- (5) A deferral under subsection (4) must be capitalized.

Prepayment under closed-prepayment loan

- 16** (1) A borrower under a closed-prepayment loan who is not in default under the loan may, at any time during the term of the loan, prepay the whole or any part of the loan on payment to the Board of a prepayment fee in an amount equal to the greater of
- (a) 3 months' interest on the loan balance at the established interest rate; and
 - (b) interest calculated using the interest rate differential for the period remaining in the term of the existing loan or 5 years, whichever is shorter.
- (2) In clause (1)(b), "interest rate differential" means the difference between an existing loan's actual interest rate and the interest rate that would be applicable to a new loan with a term, calculated in number of months, equivalent to the period remaining in the term of the existing loan.

Annual prepayment options under closed-prepayment loan

- 17** (1) A borrower under a closed-prepayment loan may, if not in default under the loan, exercise 1 of the following prepayment options once in each calendar year:
- (a) to increase the amount of each payment of principal and interest by an amount no greater than 10% of the current amount of a payment of principal and interest;
 - (b) to pay down the principal of the loan, without payment of interest, in an amount that is no greater than 10% of the original amount of the loan, unless the Board accepts a higher amount in accordance with subsection (2).
- (2) The Board may accept, without the payment of interest, a payment that exceeds the 10% limit specified in clause (1)(b), but only if the Board is satisfied that 1 of the following special and unforeseen circumstances exists:
- (a) proceeds from property insurance on secured assets have been recovered;
 - (b) proceeds have been recovered from a subsidy or grant that has been assigned to the Board;
 - (c) proceeds from life insurance on the death of an insured borrower have been recovered;

- (d) the Board has refinanced the existing loan with a loan of similar terms and outstanding principal but that bears a higher interest rate.

Determining interest rate

- 18** (1) The minimum interest rate for a loan is the Government of Nova Scotia's all-in cost of borrowing on similar terms plus 0.50% for the relevant term, including any prepayment options permitted by Section 17.
- (2) Subject to the minimum interest rate in subsection (1), the Board must fix interest rates based on the cost of borrowing for the Government of Nova Scotia provided quarterly by the Department of Finance and Treasury Board, and adjusted to include any markup that the Board considers appropriate.
- (3) The Board may adjust the interest rate on an individual loan for any of the following factors:
- (a) business risk factors, including debt servicing capacity, security and the management ability of the borrower;
- (b) development policy factors as set out by the Department of Agriculture and the Board.

Prescribed fees

- 19** (1) Subject to subsections (2) and (3), the fees payable to the Board by borrowers are as set out in the following table:

Fees Payable to Board	
Type of Fee	Fee (plus any applicable taxes)
Mortgage release fee	\$50.00
Reamortization fee	lesser of: <ul style="list-style-type: none"> · 1.125% of loan balance · \$250.00
Mortgage assumption fee	\$310.00
Loan guarantee fee	Amount determined necessary by Board management to compensate for risk being undertaken (minimum 1.5% per year on outstanding balance)
Fee for preparing deeds, mortgages, agreements of sale, chattel mortgages, leases or any	\$124.00

related documents	
Fee for preparing detailed financial statements, searching legal records and providing statistical data	\$62.00
File review fee	\$100.00
Insufficient funds fee	\$35.00

- (2) The Board may charge to a loan account any fees charged by an external agency for registration or release of registration of the Board's security interest.
- (3) The Board may exempt a borrower from the file review fee if the borrower meets the reporting requirements set out in the loan agreement.

Legislative History Reference Tables

Timber Loan Board Regulations

N.S.
Reg. 141/2020

Forests Act

Note: The information in these tables does not form part of the regulations and is compiled by the Office of the Registrar of Regulations for reference only.

Source Law

The current consolidation of the *Timber Loan Board Regulations* made under the *Forests Act* includes all of the following regulations:

N.S. Regulation	In force date*	How in force	Royal Gazette Part II Issue
141/2020	Oct 6, 2020	date specified	Oct 23, 2020

The following regulations are not yet in force and are not included in the current consolidation:

N.S. Regulation	In force date*	How in force	Royal Gazette Part II Issue
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*See subsection 3(6) of the *Regulations Act* for rules about in force dates of regulations.

Amendments by Provision

ad. = added
am. = amended

fc. = fee change
ra. = reassigned

rep. = repealed
rs. = repealed and substituted

Provision affected	How affected
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Note that changes to headings are not included in the above table.

Editorial Notes and Corrections

Note	Effective date
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Repealed and Superseded

N.S. Regulation	Title	In force date	Repealed date
14/1965	<i>Timber Loan Board Regulations</i>	Aug 18, 1965	Oct 6, 2020

Note: Only regulations that are specifically repealed and replaced appear in this table. It may not reflect the entire history of regulations on this subject matter.