

**LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES**

10TH ASSEMBLY, 4TH SESSION

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REGULATIONS REGISTER



Northwest
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BUSINESS LOANS AND GUARANTEES ORDINANCE

The Commissioner of the Northwest Territories, pursuant to section 40 of the Business Loans and Guarantees Ordinance, and every enabling power, orders as follows:

1. The Small Business Loans and Guarantees Regulations, R.R.N.W.T. 1980, Reg. 247 are repealed and that the Business Loans and Guarantees Regulations are hereby made and established:

"1. These regulations may be cited as the Business Loans and Guarantees Regulations.

Interpretation

2. In these regulations

"guarantee fee" means the fee payable by a financial institution to the Commissioner in consideration of a guarantee pursuant to section 14;

"prime rate" means the lowest annual rate of interest quoted by a financial institution to its most credit-worthy customers.

Application for Loan or Guarantee

3. An applicant shall complete and sign an application in a form acceptable to the Department Head.

4. An applicant for a loan shall furnish, at the time of making his application, evidence, satisfactory to the board considering his application, that he is unable or would likely be unable to obtain a loan from a financial institution on reasonable terms and conditions.

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Boards

5.(1) The monetary jurisdiction for the Territorial Business Loans Board, for the purposes of paragraph 11(1)(a) of the Ordinance, is greater than fifty thousand dollars but equal to or less than five hundred thousand dollars.

(2) The monetary jurisdiction for a regional business loans board, for the purposes of paragraph 11(2)(a) of the Ordinance, is equal to or less than fifty thousand dollars.

Honoraria and Expenses

6.(1) A member of a board, other than a member of the public service, shall be paid an honorarium of seventy-five dollars for each half day and one hundred and fifty dollars for each day that he spends attending or travelling to or from a meeting of the board.

(2) A member of a board who participates in a meeting of the board by means of a telephone conference call shall be deemed to be attending a meeting.

7. A member of a board shall be paid

- (a) the actual cost of his transportation to and from a meeting of the board by means of the most direct and economical route available;
- (b) a daily amount for expenses of one hundred and twenty-five dollars for each day the member spends attending or travelling to or from a meeting of the board away from his ordinary place of residence; and
- (c) the actual cost of any reasonable expenses incurred beyond those amounts provided for in paragraph (a) or (b), if all expenses incurred by the member are substantiated by receipts.

(2) Where a member of a board spends half a day attending or travelling to or from a meeting, the daily amount for expenses provided in paragraph (1)(b) shall be prorated accordingly.

8.(1) For the purposes of entitlement to honoraria or expenses under sections 6 and 7, a member of a board shall be deemed to spend half a day attending a meeting or travelling when he spends any portion of a morning, afternoon or evening attending a meeting or travelling.

(2) Notwithstanding subsection (1), a member of a board is not entitled to more than one day's honorarium or expenses in any twenty-four hour period.

Limit to Loan and Guarantee

9. The limit provided for in paragraph 38(2)(a) of the Ordinance is five hundred thousand dollars.

10. The maximum amount of a guarantee, whether of principal, interest or both, is equal to the lesser of

- (a) ninety per cent of the principal amount of the guaranteed loan outstanding and ninety days' interest on that principal at a rate equal to the rate of interest on the guaranteed loan minus the rate of the guarantee fee paid by the financial institution, as determined under section 14; or
- (b) four hundred and fifty thousand dollars.

Interest Rates

11.(1) Subject to subsection (3), the rate of interest on a loan is the rate determined in subsection (2) existing on the first day of the quarter of the year in which the board makes its recommendation that the loan be made.

(2) The rate of interest is two per cent more than the prime rate of the bank in which the Northwest Territories Consolidated Revenue Fund, as established by the Northwest Territories Act (Canada), is located.

(3) Where the proceeds of a loan are to be advanced at a time subsequent to the making of the loan to a person other than the borrower, the rate of interest on any principal not advanced is two per cent per annum and the rate of interest on any principal that is advanced is the rate otherwise applicable under this section.

(4) The interest on a loan is calculated to compound semi-annually not in advance.

Amortization and Term of Loans

12.(1) Loans where the principal is less than ten thousand dollars are amortized over a period not exceeding three years.

(2) Loans where the principal is equal to or greater than ten thousand dollars but less than fifty thousand dollars are amortized over a period not exceeding ten years.

(3) Loans where the principal is equal to or greater than fifty thousand dollars but less than two hundred and fifty thousand dollars are amortized over a period not exceeding twenty years.

(4) Loans where the principal is equal to or greater than two hundred and fifty thousand dollars are amortized over a period not exceeding twenty-five years.

13. The term of a loan must not exceed the amortization period of that loan or five years, whichever is less.

Guarantee Fee

14.(1) A financial institution which has made a guaranteed loan to a borrower shall pay to the Commissioner, in consideration of the guarantee, a guarantee fee calculated, in accordance with this section, as a rate of the principal outstanding on the guaranteed loan.

(2) For the purposes of subsection (1), the rate of the guarantee fee is equal to the greater of

- (a) one per cent per year, or
- (b) the rate of interest charged by the financial institution to the borrower on the guaranteed loan minus the sum of that financial institution's prime rate and one per cent.

(3) Notwithstanding subsection (2), the Executive Member may fix the rate of the guarantee fee between one per cent per year and the rate determined in paragraph (2)(b).

(4) The rate of the guarantee fee determined under this section is calculated on an annual basis in the same manner as is used for interest on the guaranteed loan from the commencement of the term of the guaranteed loan until the guaranteed loan has been repaid or until default by the borrower, whichever occurs first.

Agreements

15. The agreement entered into between the Commissioner and a borrower respecting a loan must set out

- (a) the payment schedule for principal and interest,
- (b) the interest rate,
- (c) the term and period of amortization of the loan,
- (d) the terms and conditions upon which repayment of the loan will occur,
- (e) the manner in which the borrower's assets may be taken or seized, and
- (f) the disposition or management of any assets taken or seized,

and may set out such other matters as the Commissioner and the borrower consider appropriate.

16. The agreement entered into between the Commissioner and a financial institution respecting a guarantee must set out
- (a) the amount of liability on the guarantee,
 - (b) the terms and conditions upon which liability on the guarantee will occur,
 - (c) the manner in which the borrower's assets may be taken or seized by the financial institution,
 - (d) the disposition or management of assets taken or seized by the financial institution,
 - (e) the time and manner of payment of the guarantee fee by the financial institution,
 - (f) the degree to which the financial institution must pursue collection of any loss from the borrower before claiming on the guarantee, and
 - (g) the time, manner and content of reports to be given by the financial institution on the status of the guaranteed loan and any security relating to it,
- and may set out such other matters as the Commissioner and the financial institution consider appropriate.

Procedure on Default of Loans

17.(1) Where a borrower defaults on a loan, the chairperson of the regional business loans board, for the region where the borrower has his principal place of business, shall attempt to collect the amount owing to the Commissioner.

(2) Where the attempt does not result in collection of the amount owing to the Commissioner on a loan, the chairperson referred to in subsection (1) shall recommend a course of action to collect the amount owing to the board which recommended approval of that loan within sixty days of the default.

18. The board shall consider the course of action recommended to it under section 17 and shall recommend a course of action to

- (a) the Department Head, in the case of the Territorial Business Loans Board; or
- (b) the appropriate Regional Director, in the case of a regional business loans board.

19. Upon receipt of a board's recommendation, the Department Head or the regional director, as the case may be, shall

- (a) decide what action shall be taken in accordance with the recommendation to collect the amount outstanding; and
- (b) ensure that that action is carried out.

20.(1) Where, in the opinion of the chairperson of a regional business loans board, the delay from the procedure provided in sections 17, 18 and 19 would seriously prejudice the interest of the Commissioner in a loan, the chairperson may, on his own initiative, act to protect that interest.

(2) Where a chairperson acts pursuant to subsection (1), he shall immediately report the action to the appropriate regional director and report the action to the board which recommended approval of the loan no later than at its next meeting.

(3) Upon receipt of a report under subsection (2), a board may make a recommendation under section 18.

21. Where a loan has been in default for ninety days the Department Head or the appropriate regional director shall inform the Department Head of the Department of Finance of the default.

22. Sections 17 to 21 apply to guaranteed loans in default that are assigned to the Commissioner.


Claim for Loss on a Guarantee

23.(1) A financial institution may submit a claim for loss on a guarantee to the secretary of the board which recommended that the guarantee be made, who may receive it on behalf of the Executive Member.

- (2) Upon receipt of a claim for loss, the secretary shall
- (a) consider and verify the claim; and
 - (b) forward the claim together with a report on it to the Department Head on behalf of the Executive Member."

2. These regulations shall come into force on the 1st day of April, 1985.

Dated at Yellowknife this 18th day of March, 1985.


John H. Parker,
Commissioner of the
Northwest Territories.