
SECTION 15

LOANS AND GUARANTEES

15.04 LOANS IN DEFAULT/CENTRAL REGISTRY

AUTHORITY: *FINANCIAL ADMINISTRATION ACT*
TREASURY BOARD

ADMINISTRATION: FINANCE PEI

EFFECTIVE DATE: JUNE 2024

15.04 LOANS IN DEFAULT/CENTRAL REGISTRY

(1) INTRODUCTION

The policies and procedures for loan/lease programs implemented by Crown corporations and agencies are determined by acts, regulations and board policies which are available from the Crown corporations involved.

The policies and procedures for forgivable performance loans implemented by departments are approved by Executive Council and/or Treasury Board and are available from the respective departments involved.

The Government has directed that Government financial assistance and the issuance of discretionary licenses and permits will not be made available to those individuals, corporations or successor corporations which are indebted to Government as a result of a default as described in Section 4 - Definitions of this policy, and when compensatory arrangements have not been made.

A default to the Government exists when the client fails to comply with the terms of the contract and the loss is written off or otherwise deemed uncollectible by the department. A default under this policy exists only if the department can legally demand payment and the client is legally obligated to pay.

This policy does not impact on unconditional grants and subsidy assistance provided by the Government and in which there is no requirement for the client to repay under any circumstances.

The Loans in Default policy is not intended to replace loan evaluations; however, it does restrict further loans and issuance of discretionary licenses and permits to those who, for whatever reason, have not repaid prior Government loans/financial assistance.

Notwithstanding financial assistance to individuals, proprietorships, partnerships, and guarantors, when considering an application from a new corporation, the responsible department is to deny further assistance if, in the new corporation, a shareholder, director, president, vice president, secretary or any other officer as outlined in the corporation's Act of Incorporation, is in default with the Government of P.E.I, as defined in Section 4(e) of this policy.

(2) APPLICATION

The application of this policy is referenced to the schedules of the *Financial Administration Act* (FAA) for which funds are appropriated directly or within a department unit and applies as follows (**excluding** Workers Compensation Board, Charlottetown Area Development Corporation and Summerside Regional Development Corporation):

- Schedule "A" - Departments
- Schedule "B" - Crown corporations
- Schedule "C" - Education Authorities
- Schedule "D" - Commissions

(3) POLICY STATEMENT

Unless otherwise approved by Treasury Board, Government departments and agencies involved in providing, as defined in Section 5 of this Policy, either loan/financial assistance or the issuance of discretionary licenses and permits, are not to provide further loan/financial assistance or discretionary licenses and permits to those individuals, corporations or successor corporations who have not satisfied/made satisfactory arrangements on prior indebtedness due to the Government.

Treasury Board has directed that Government departments and agencies involved in providing financial assistance to small business not entertain applications for such individuals/firms until satisfactory arrangements have been made on all prior indebtedness incurred by the Province of Prince Edward Island on behalf of the individual/firm.

(4) DEFINITIONS

For the purposes of this policy and its implementation, the following definitions will apply:

- (a) **“Board”** means Treasury Board.
- (b) **“Cancellation of Obligation”** means the total forgiveness/satisfaction of the obligation in a legal sense. There is no further legal obligation for the contract party to fulfil the obligation or to repay the debt.
- (c) **“Client”** means an individual or corporation receiving a loan/financial assistance as defined in Section 5 of this Policy.
- (d) **“Compensatory Arrangements”** can be, or mean:
 - (i) Pay-out;
 - (ii) Outlawed Statute of Limitations;
 - (iii) Discharged in bankruptcy;
 - (iv) Full settlement of the debt, or perhaps partial settlement if accepted as payment in full of the obligation;
 - (v) Arrangements, acceptable to the department, for the repayment of the defaulted debt which may include additional security;
 - (vi) Cancellation of the financial obligation by Executive Council, under authority of the FAA;
 - (vii) Special authority, by Treasury Board or Executive Council, to over-ride this policy.
- (e) **“Default”** means the failure to repay a loan/financial assistance, or part thereof, for which a party is legally obligated. A default occurs:
 - (i) when a loan/financial assistance is written off;
 - (ii) when a client has failed to fulfil the terms of a contract with the Government and the department determines that the financial obligation due the Government is not going to be repaid.

- (f) **“Department(s)”** means departments, Crown corporations, and reporting entities as set out in the Schedules to the FAA.
- (g) **“Discretionary licenses and permits”** means licenses or permits authorized to be issued by any enactment of Prince Edward Island in circumstance where a Minister of the Crown or the Lieutenant Governor in Council has the statutory or regulatory authority to set conditions for the issuance of such licenses and permits.
- (h) **“FAA”** means the *Financial Information Act*.
- (i) **“Loan/Financial Assistance”** means loan/financial assistance activities as identified in Section 5 “Scope of Policy” or any other transaction that involves financial assistance provided by Government.
- (j) **“Successor Corporation”** includes a corporation holding either the shares or the assets of a prior corporation for which government is a secured creditor.
- (k) **“Write-off of a Financial Obligation”** means to remove the accounts receivable from the books of account of the lender. The write-off does not affect the legal obligation of the borrower to repay the debt. The write-off includes write-down of the debt and interest forgiveness.

(5) SCOPE OF POLICY

For clarification purposes, the following is a list of various activities that will **normally** fall within the scope of this policy. **This list is not all-encompassing**, and if there is a question arising regarding an activity not listed, the department should contact Finance PEI for clarification.

Activities

- (i) Loans
- (ii) Leases
- (iii) Youth Business Investments
- (iv) Forgivable Performance Loans
- (v) Student Business Program Loans
- (vi) Loan Advances
- (vii) Accounts Receivable
- (viii) Loan Guarantees
- (ix) Forgivable Performance Grants
- (x) Performance Guarantees
- (xi) Share Capital
- (xii) Agriculture Safety Net Insurance Programs*
- (xiii) Discretionary licenses and permits

Exclusions

The following activities **are not** intended to be within the scope of this policy:

- (i) Taxes
- (ii) Welfare Over-payments
- (iii) Licensing and Inspection fees
- (iv) Unconditional Grants

*While Safety Net Insurance Program “Defaults” are included as part of this Central Registry, clients would not be deemed ineligible to participate in Agriculture Safety Net Programs because of other defaults recorded within this Registry.

(6) CENTRAL REGISTRY

In order to assist departments in complying with the Treasury Board directive, the Central Registry has been set up and is maintained at Finance PEI. The registry contains a listing of individuals or corporations who have defaulted (see Definition 4(e) of this Policy) and are still obligated to the Government or its Crown corporations as a result of previous transactions on their behalf and compensatory arrangements have not been made.

This registry enables departments to determine if a default is on record at the Central Registry before providing assistance. In order for the registry to be effective, it is imperative that complete and accurate information be provided by all departments involved in loan and financial assistance transactions with the private sector. This information is to include current defaults, adding new defaults and deleting those that have made compensatory arrangements.

Guidelines:

- (a) It is the sole responsibility of reporting agency, corporation or department to:
 - (i) Assume the responsibility for the accuracy and completeness of information provided to Finance PEI which is to be recorded in the Central Registry;
 - (ii) Contact Finance PEI, when considering financial assistance, to determine if there is any recorded default with reference to the respective client and, further, obtain current up-to-date detail on the issue from the departments which supplied the original information re the default;
 - (iii) negotiate any compensatory arrangements which may, in future, be required with the recorded client; and to advise Finance PEI, in writing, when and if any compensatory arrangements have been made;
 - (iv) provide any details on the recorded client as a result of inquiries from other government agencies, corporations or departments.

15.04 Loans in Default/Central Registry

- (b) The Central Registry will include all those accounts in default and to which the Government has provided loans/financial assistance, which include a pay-back provision if certain conditions are not met, and other contracts of a financial nature. (See List of Activities in Section 5 - "Scope of Policy")
- (c) The Central Registry at Finance PEI will contain the following tombstone information on loans in default, as applicable:
- (i) Name of Lender department/corporation, mailing address, telephone number and contact person;
 - (ii) Indication of whether information is a new addition to the registry, or whether it is a revision to or deletion of a current listing;
 - (iii) Borrower/debtor information as follows:
 - (A) Name of debtor;
 - (B) Address of debtor;
 - (C) Social Insurance Number, if available;
 - (D) Corporate affiliate, if applicable;
 - (E) Debt Information:
 - Amount of Debt Obligation (original)
 - Date of Obligation (original)
 - Due Date of Obligation (expiry)
 - Balance of Obligation:
Principal \$_____ Interest/Other \$_____ Effective Date:
 - Amount of Obligation in Default:
Principal \$_____ Interest/Other \$_____ Effective Date:
 - Purpose of Debt;
 - (F) - Judgement held - Yes/No - Date of Expiry;
 - (G) - Date which debt will expire by statute of limitations.
 - (iv) Effective date of information;
- (d) Departments are required to submit to Finance PEI Central Registry, information on all defaulted obligations as soon as the department determines that a default exists. Such additions are to include the detailed information as outlined in Section 6(c), above; more particularly set out in Attachment 15.04-I.
- (e) Departments are also required to submit to Finance PEI Central Registry, deletions or other significant changes in the status of defaulted accounts as and when they occur.
- (f) The loans in default/central registry information reports must be prepared by departments in the format set out in Attachment 15.04-I.

(7) INTERPRETATION

Amendments to the policy require the approval of Treasury Board. In cases where an interpretation is required, such should be referred to Finance PEI who will provide the interpretation or refer the matter to the Secretary to Treasury Board, if a Board decision is deemed necessary.