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TERRITORY

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1986

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VOLUME 2  
CHAPTERS  
101-182

APPENDICES  
INDEX



# **Revised Statutes of the Yukon, 1986**

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of the Legislature of the Yukon Territory**

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## **Volume 2 Chapters 101 to 182**

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# **CHAPTER 101**

## **LEGAL SERVICES SOCIETY ACT**

### **Interpretation**

1. In this Act,

- “applicant” means an individual who applies for legal aid, or to whom legal aid is furnished;
- “board” means the board of directors of the society under section 3;
- “legal aid” means legal advice and other services ordinarily provided by a lawyer that may be furnished to an individual under this Act;
- “registrar of regulations” means the registrar of regulations under the Regulations Act;
- “society” means the Yukon Legal Services Society established under this Act;
- “Law Society of Yukon” means the Law Society of Yukon established under the Legal Profession Act.

### **Establishment of the society**

2.(1) There is hereby established a body corporate under the name “Yukon Legal Services Society”, consisting of the persons appointed from time to time under section 3.

(2) For the purposes of this Act, the society has all the powers and capacity of a natural person.

(3) The society is not an agent of the Government of the Yukon or the Law Society of Yukon.

## **BOARD OF DIRECTORS**

### **Membership**

3.(1) The society shall have a board of directors consisting of

- (a) three persons nominated by the Law Society of Yukon,
- (b) one person nominated by the Attorney General of Canada, and
- (c) four persons nominated by the Executive Council Member, at least three of whom shall not be lawyers.

(2) Nominations under paragraphs (1)(a) and (b) shall be in writing signed by or on behalf of the nominator, and are effective from the time they are delivered to the registrar of regulations.

(3) Nominations under paragraphs (1)(a) and (b) may be revoked by delivery to the registrar of regulations of an appropriate statement, signed by or on behalf of the person entitled to make the nomination.

(4) Where a vacancy occurs in the membership of the board, it may be filled for the unexpired term of the person who was a member by nomination or appointment of the appropriate authority pursuant to subsections (1) and (2).

(5) The registrar of regulations shall, within one month of receiving a nomination or revocation under this section, publish notice of it in the Yukon Gazette.

(6) A vacancy in the membership of the board does not impair the right of the remaining members to act.

**Term of office**

4.(1) The term of office for which members of the board may be appointed shall not exceed two years.

(2) A member of the board is eligible for reappointment on the expiration of his term of office.

(3) Notwithstanding subsection (1), of the members first nominated under paragraph 3(1)(a), two shall hold office for a term of one year, and of the members first appointed under paragraph 3(1)(c), two shall hold office for a term of one year.

**Chairperson**

5. The board shall select a chairperson from its members.

**Meetings**

6.(1) The board shall meet at the call of the chairperson, who shall ensure that members receive not less than five days notice of meetings.

(2) Notwithstanding subsection (1), a meeting of the board may be called with less than five days notice where, in the opinion of the chairperson, it is necessary to do so to deal with an urgent matter, but no business shall be conducted at the meeting unless the decision of the chairperson to call the meeting is ratified at the meeting by not less than three quarters of the members of the board.

**Quorum**

7. A majority of the members of the board is a quorum.

**Decisions**

8. A decision of a majority of the members present at a meeting of the board is a decision of the board.

**Remuneration and expenses**

9.(1) Members of the board who are not members of the public service of the Yukon or Canada may be paid such remuneration as may be prescribed.

(2) A member of the board may be paid transportation, accommodation and living expenses incurred in connection with the performance of his duties as a member of the board away from his ordinary place of residence, but the payment of such expenses shall conform as nearly as possible in all respects to the payment of such expenses for members of the public service of the Yukon.

## MANAGEMENT OF THE SOCIETY

### **Powers of the board**

10.(1) Subject to this Act, the board shall control and direct the business of the society and may, by resolution, determine its own procedures.

(2) Without limiting the generality of subsection (1), the board may, by resolution, make provision for

- (a) the conduct of the meetings and business of the board,
- (b) the records to be kept in respect of the business of the board, and the custody, preservation and provision of access to them,
- (c) the appointment, powers and duties of a vice-chairperson,
- (d) the procedures to be followed where a member of the board has a conflict of interest in respect of any matter under consideration by the board, and
- (e) any other matter that reasonably is necessary or advisable for the effective and orderly performance of the duties of the board.

(3) All members of the board are entitled to have access to records referred to in paragraph (2)(b).

### **Executive director**

11.(1) The board may, by resolution, appoint an executive director and determine the terms and benefits of his employment.

(2) The executive director shall supervise, manage and administer the business of the society in accordance with the policies of the board, and subject to its control and direction.

### **Staff**

12.(1) The board may appoint officers and employees, and engage specialists and consultants required to carry out the business of the society.

(2) A board may determine the terms and benefits of employment of persons employed or engaged under subsection (1).

(3) The Public Service Commission Act and the Public Service Staff Relations Act do not apply to the society and its staff.

(4) The society may, for the benefit of some or all of the members of its staff and their dependents, establish, support or participate in pension, superannuation or group insurance plans.

### **Delegation of power**

13.(1) The board may, by resolution, delegate any of its powers under this Act not required to be exercised by order or resolution to one or more members of the board, or to the executive director, where the board is of the opinion that it is advisable to do so for the effective conduct of its business.

(2) A decision of a person to whom power has been delegated under subsection (1) is a decision of the board, but the board may revoke, vary or confirm the decision.

## LEGAL AID

### Powers of the society

14.(1) Subject to this Act and the regulations, the society may

- (a) provide legal aid to individuals who are unable for financial reasons to secure legal services necessary because of their involvement in
  - (i) criminal proceedings that could lead to their imprisonment,
  - (ii) civil proceedings that could lead to their imprisonment or confinement,
  - (iii) proceedings respecting domestic disputes that may affect their or their children's physical or mental safety or health, or
  - (iv) legal problems that threaten their livelihood, the physical or mental safety or health of themselves or their families, or their ability to provide food, clothing and shelter for themselves or their families,
- (b) establish student legal aid offices, community clinics and other programs for the provision of legal advice or services, and
- (c) develop or co-ordinate programs to reduce or prevent the occurrence of legal problems among the people of the Yukon, and to increase their knowledge about the law, legal processes, and the administration of justice.

(2) Legal aid shall not be provided except for a proceeding or proposed proceeding in any court in respect of

- (a) an offence by an individual against an Act of Parliament or the Legislature,
- (b) an offence by an individual against a regulation made pursuant to an Act of Parliament or the Legislature, or
- (c) a civil matter in respect of which legal aid may be provided to an individual pursuant to an agreement between the Government of Canada and the Government of the Yukon.

(3) Notwithstanding any other provision of this or any other Act, and notwithstanding any rule of law to the contrary, legal aid shall not be provided except by decision of the board pursuant to this Act.

### Society not practising law

15. Notwithstanding section 14, and notwithstanding the provisions of the Legal Profession Act, the society in providing legal aid shall be deemed not to be practising law within the meaning of that Act.

### Board orders

16.(1) Subject to this Act, the board may by order specify or establish

- (a) the matters in respect of which legal aid may be provided,
- (b) the standards and criteria for determining an applicant's eligibility for legal aid,



- (c) the circumstances in which an applicant may be required to contribute to the cost of legal aid provided to him, and the amount required to be contributed,
- (d) the procedures for accommodating applicants who reside in remote areas of the Yukon,
- (e) the procedures for accommodating applicants who are under the age of 19 years,
- (f) classes of matters in respect of which legal aid may be provided, and the manner in which and extent to which legal aid may be provided for any such class,
- (g) the basis for determining the amount of fees and disbursements payable to a lawyer for services provided under this Act,
- (h) a tariff of fees and disbursements to be used in taxing lawyers' bills,
- (i) the procedure for approving, taxing, settling and paying the accounts of lawyers,
- (j) the appointment, duties and remuneration of duty counsel,
- (k) the procedures and forms to be used for applications for legal aid,
- (l) the procedures for selecting and appointing a lawyer to provide services under this Act to an applicant,
- (m) the procedures and forms to be used by lawyers for submitting bills to the society,
- (n) the rules to be followed by lawyers in the provision of services under this Act,
- (o) the procedures for the maintenance of a panel of lawyers for the provision of services under this Act,
- (p) the circumstances in which and the extent to which costs awarded against an applicant in proceedings in respect of which he has been provided with legal aid may be paid by the society, and
- (q) appeals to the board from decisions made by a person in the exercise of a power delegated to him under section 13.

(2) The board may by order revise or repeal any order made under subsection (1), and in such revision or repeal may make such transitional provisions as the board considers necessary.

#### **Commencement of orders**

17.(1) Orders of the board under section 16 come into force upon their publication in the Yukon Gazette, or such later time as they may specify.

(2) An order of the board under section 16 is a regulation within the meaning of the Regulations Act.

#### **Eligibility for legal aid**

18. The eligibility of an applicant for legal aid shall be determined by the board on the basis of

- (a) its orders in force under section 16 at the time at which the legal aid is to be provided, and
- (b) the ability of the applicant to obtain legal services at his own expense.

## FINANCIAL MATTERS

### Funds of the society

19.(1) The funds of the society consist of money received by it from any source including, without restricting the generality of the foregoing,

- (a) money granted to it by the Government of the Yukon or the Government of Canada,
- (b) money received by it by way of gift, bequest or otherwise for the purposes of this Act, and
- (c) money received by it as a contribution from recipients of legal aid, or as costs in respect of proceedings in respect of which legal services have been provided under this Act.

(2) The board may invest, expend and administer funds of the society subject to this Act and subject to the terms, if any, upon which the money is given or otherwise made available to the society.

### Government funding

20.(1) The board shall, at least once in every fiscal year at such time as the Executive Council Member directs, submit to him an estimate of the sum required to fulfill its programs under this Act during the next succeeding fiscal year after making allowances for the society's estimated revenues from sources other than the Government of the Yukon.

(2) For the purposes of this Act, the Executive Council Member may, subject to the Financial Administration Act, pay grants to the society from the Yukon Consolidated Revenue Fund with money authorized to be paid and applied for legal aid or legal education by an Act of the Legislature, and he may for the purposes of subsection 19(2) specify terms relating to the investment, expenditure and administration of the grants.

### Recovery of contributions from applicants

21. Where an applicant is required pursuant to paragraph 16(1)(c) to make a contribution toward the cost of legal aid furnished to him, the amount of the contribution until paid constitutes a debt due and owing to the society recoverable in a court of competent jurisdiction.

### Costs

22.(1) A court may award costs to an individual in a proceeding in which he has received legal aid, notwithstanding that he has not paid and will not be liable to pay his counsel.

(2) Where costs are awarded under subsection (1), they shall be deemed to be assigned to the society and recoverable by it.

### Payment of costs out of recovered amounts

23. Where any money is paid to or recovered by the society or a lawyer for an applicant in respect of any proceedings for which legal aid has been provided to the applicant, the society is entitled to receive or retain out of that money compensation for its lawyer's costs and other expenses incurred in the course of and as a consequence of the provision of the legal aid.

**Financial Administration Act**

24. The Financial Administration Act does not apply to funds of the society.

**Fiscal year**

25. The fiscal year of the society shall be the same as that of the Government of the Yukon.

**Audit**

26. An auditor appointed by the Executive Council Member shall annually audit the books, records and accounts of the society and submit a report to the Executive Council Member.

**MISCELLANEOUS**

**Privilege**

27.(1) All information and communications in the possession of the society relating to an applicant for legal aid and his affairs is privileged to the same extent that privilege would attach to information and communications in the possession of a lawyer.

(2) Notwithstanding any other Act or rule of law, a lawyer who provides services under this Act to an applicant shall disclose to the board, or to a member of the board or its staff designated by the board, all information of which the lawyer is aware respecting the eligibility of the applicant to receive legal aid.

**Liability for professional conduct and costs**

28.(1) The society is not liable for anything done or omitted to be done by a lawyer in the provision of services to an applicant under this Act.

(2) Except as provided under paragraph 16(1)(p), the society is not liable for the payment of costs awarded against an applicant in any proceedings in respect of which he receives legal aid.

(3) With respect to services provided by a lawyer under this Act, he remains subject to the Legal Profession Act and the rules of the Law Society of Yukon.

**Societies Act**

29.(1) The Societies Act does not apply to the society.

(2) Notwithstanding subsection (1), the Commissioner in Executive Council may order that one or more of the provisions of the Societies Act apply to the society.

(3) Upon the winding-up of the society, the assets of the society remaining after discharge of its debts and other liabilities shall become the property of the Government of the Yukon.

**Annual report**

30. The board shall submit to the Executive Council Member an annual report on its affairs, including such statistical, financial, descriptive and explanatory information as the Executive Council Member may require.

**Agreements with Canada**

**31.** The Commissioner in Executive Council may enter into agreements with the Government of Canada respecting the provision of legal aid in the Yukon.

**Regulations**

**32.** The Commissioner in Executive Council may make regulations respecting

- (a) the remuneration payable to members of the board;
  - (b) the oaths of office to be taken by members of the board;
  - (c) any other matter not provided for in section 16 that he considers necessary to carry the purposes and provisions of this Act into effect.
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# **CHAPTER 102**

## **LEGISLATIVE ASSEMBLY ACT**

### **Interpretation**

1. In this Act,

“Government Leader” means the recognized leader of the party or coalition that forms the Government;

“leader of a party” means the recognized leader of a party;

“Leader of the Official Opposition” means the recognized leader of the party with the largest number of members in opposition to the party or coalition that forms the government;

“member” means a member of the Legislative Assembly;

“party” means a registered political party as defined in the Elections Act which has one or more members who identify themselves with that party in the Legislative Assembly;

“recognized leader” means the member who is recognized, by the other members who identify themselves with a party, as being the leader of that party in the Legislative Assembly.

### **Composition**

2. The Legislative Assembly shall be composed of members elected in the manner provided by the Elections Act one to represent each of the electoral districts established by the Electoral District Boundaries Act.

### **Duration**

3. At the prorogation of a Legislative Assembly it is not necessary to name any day to which it is prorogued, nor to issue a proclamation for a meeting of the Legislative Assembly, unless it is intended that the Legislative Assembly meet for the dispatch of business.

### **Qualifications**

4. Any person who would be entitled to vote at an election of members of the Legislative Assembly pursuant to the Elections Act shall be eligible for nomination and election as a member of the Legislative Assembly, unless disqualified under this or any other Act.

### **Disqualifications**

5.(1) A member of the Senate or of the House of Commons of Canada or of the legislative assembly of any province is not eligible to be a member of the Legislative Assembly.

(2) A member of the Legislative Assembly who sits or votes as a member of the Senate or of the House of Commons of Canada or of the legislative assembly of any province becomes ineligible to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly.

### **Disqualifications and exemptions**

6.(1) For the purposes of this section and section 7, “Government” includes any department, ministry, branch, board, commission or agency of the government.

(2) Subject to subsection (3), a person who accepts or holds any office, commission or employment in the service of, or at the nomination of, Her Majesty, the Government of Canada or the Government of the Yukon is not eligible to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly.

(3) Nothing in this Act renders a person ineligible to be a member of the Legislative Assembly by reason only that he,

- (a) accepts or holds the office of Speaker or Deputy Speaker of the Legislative Assembly,
- (b) accepts or holds a position as member of the Executive Council or the Advisory Committee on Finance,
- (c) receives any indemnity, expense allowance, salary, reimbursement or other payment to which he is entitled pursuant to this Act,
- (d) is or becomes an active member of the Canadian Forces as a consequence of war,
- (e) is or becomes a member of the militia or other reserve of the Canadian Forces other than in a position to which is attached a full-time salary,
- (f) accepts or holds a position which a member of the Legislative Assembly is expressly authorized to hold by resolution of the Legislative Assembly or by any Act as long as no salary or other profit is received by the person other than as provided for in or pursuant to the resolution or Act,
- (g) attends any meeting or event as a representative of the Legislative Assembly, the Speaker or the Government of the Yukon in his capacity as a member of the Legislative Assembly and receives only reimbursement of his travelling and living expenses therefor,
- (h) accepts or holds the office of justice of the peace, coroner or notary public,
- (i) receives a pension or other benefit in respect of previous service to Her Majesty, the Government of Canada or the Government of the Yukon,
- (j) is or becomes employed by the Government of the Yukon as a casual employee within the meaning of the Public Service Commission Act, or
- (k) is or becomes a member of a board, commission or other body created by an Act and he holds office as a member at the nomination of the Commissioner in Executive Council.

#### **Disclosure of members' interests**

7.(1) The purpose of this section in general is to promote full public disclosure by the members of their private interests, which may be or may appear to be in conflict with their duties as members, and in particular but without limiting the generality of the foregoing, the purpose of this section is to promote full public disclosure of

- (a) any direct or indirect interest of a member or his family, alone or with another, or by the interposition of a trustee, corporation or third party, in any contract with the Government of the Yukon,
- (b) any substantial benefits received directly or indirectly by a member or his family for or in respect of any contract with the Government of the Yukon,
- (c) any substantial benefit or gift received by a member or his family that may have been or may appear to have been received in respect of the actual or anticipated discharge by the member of his public duties,

- (d) any debt or other obligation of a member that may influence or appear to influence the discharge by the member of his public duty,
- (e) all of the business interests of a member and his family including directorships held by the member or his family, and
- (f) the arrangements made by the members and their families to ensure that no real, apparent or potential conflict of interest exists or will arise between their personal and business affairs and their public duties.

(2) Every member shall, on or before April 30 in each year, file with the clerk of the Legislative Assembly, a disclosure statement setting forth

- (a) a full description of the sources of all income received by the member or his family in the immediately preceding calendar year,
- (b) a full description of all real property in the Yukon in which the member or his family has an interest, or has had an interest in the immediately preceding calendar year,
- (c) a full description of the corporations, associations, partnerships and societies in which the member or his family has an interest, or has had an interest in the immediately preceding calendar year,
- (d) a description of assets of the member and his family, other than assets referred to in paragraph (b) and (c) and family assets within the meaning of the Family Property and Support Act,
- (e) where a member or his family has received any benefit under any contract or agreement with the Government of the Yukon, a full description of the nature and value of that benefit,
- (f) subject to paragraph (d), such other information as may be required by the regulations, and
- (g) such other information or particulars as the member may include to comply with the purpose of this section or to show what he has done to avoid conflicts between his present interests and his duties as a member.

(3) In this section, “family” means dependant relatives of the member residing in the same household as the member and includes his spouse.

(4) Every member shall from time to time file with the clerk of the Legislative Assembly such amendments to his disclosure statement as may reasonably be required to comply with the purpose of this section.

(5) Every disclosure statement or amendment filed with the clerk of the Legislative Assembly under this section shall be open for inspection by the public during the normal office hours of the office of the clerk of the Legislative Assembly.

(6) Where an interest or benefit is received, held or enjoyed by a member in common with other members of the public or a class of the public under a statutory right, other than one that is subject to the exercise of a power of discretion by a member of the public service, and the member receives, holds or enjoys no special preference not available to other members of the public or members of the class, the interest or benefit need not be set forth in the disclosure statement by the member.

(7) Notwithstanding subsections (1) and (2), a member need not set forth in his disclosure statement an interest in which he has no beneficial interest and that is held by him as an executor, administrator or trustee.

(8) Section 3 of the Summary Convictions Act does not apply in respect of this section.

**Loss of eligibility to vote as an elector**

8. No person is eligible to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly at any time that he would not be entitled to vote at an election of members of the Legislative Assembly pursuant to the Elections Act.

**Election of disqualified person**

9. If a person is disqualified or ineligible to be a member of the Legislative Assembly by this or any other Act at the time of his election and is nevertheless elected and returned as a member-elect, his election and return are null and void unless he has declared the grounds for disqualification or ineligibility and, within 30 days of his election and return, divested himself of the grounds for his disqualification in the manner provided in the Elections Act.

**Determination of disqualification**

10.(1) No disqualification or ineligibility arising under section 6 on any ground existing before an election shall be held to affect the right of a person to be a member of the Legislative Assembly or to sit or vote in the Legislative Assembly until such has been duly declared and held by a court hearing the issue pursuant to the Controverted Elections Act.

(2) Subsection (1) shall not be construed so as to limit any power the Legislative Assembly may have to suspend or expel a member.

**Duration, effect and enforcement of disqualification**

11.(1) A person who by or pursuant to this or any other Act is disqualified from being, made ineligible to be, or declared to be ineligible to be a member of the Legislative Assembly shall remain so ineligible and shall not sit or vote in the Legislative Assembly, during the term of the then current Legislative Assembly.

(2) A person who is declared to be disqualified from being or ineligible to be a member of the Legislative Assembly

- (a) by a court pursuant to the Controverted Elections Act, or
- (b) by the Legislative Assembly on a ground arising under this Act

and who sits or votes therein after having been declared to be so disqualified or ineligible, is subject to a penalty of \$200 for every day on which he sits or votes.

(3) Any person who would be entitled to vote at an election under the Elections Act who has grounds to believe that a member is subject to a penalty under subsection (2) may commence an action in his own name in the Supreme Court for an order that the penalty should be paid by the member to the Yukon Consolidated Revenue Fund.

(4) While an action under the provisions of this section is pending and is being duly prosecuted in good faith, no other action of the same nature shall be brought against the same person.



(5) Where an action under the provisions of this section is brought and judgment in the action rendered against the defendant, no proceeding shall be commenced or continued in any other action against the same person for any offence under this section committed before the time of notice to him of the judgment.

#### **Seat of disqualified member becomes vacant**

12. When a member becomes ineligible to be a member of the Legislative Assembly or to sit and vote in the Legislative Assembly by reason of any provision of this or any other Act, the seat of the member forthwith becomes vacant.

#### **Resignation of member**

13.(1) A member of the Legislative Assembly may resign his seat,

- (a) by declaring openly in his place in the Legislative Assembly his wish to resign, in which case the seat of the member shall forthwith become vacant,
- (b) by causing to be delivered to the Speaker a written statement signed by him and attested by two witnesses declaring his wish to resign, and upon receipt thereof by the Speaker the seat of the member shall forthwith become vacant, or
- (c) if at the time the Legislative Assembly is not sitting and there is no Speaker, the Speaker is absent from the Yukon or the member wishing to resign is the Speaker, by causing to be delivered to the Deputy Speaker or, in his absence, to two members, a written statement signed by him and attested by two witnesses declaring his wish to resign, and upon receipt thereof by the Deputy Speaker or the two members, the seat of the member shall forthwith become vacant.

(2) Where a member resigns pursuant to subsection (1), the clerk shall record the resignation in the journals of the Legislative Assembly.

#### **Writ of election following resignation**

14. Where a member resigns by open declaration in the Legislative Assembly, the clerk of the Legislative Assembly shall submit a copy of the record of the resignation to the Commissioner, who shall issue a writ for an election to fill the vacancy pursuant to the Elections Act.

#### **Writ of election following resignation**

15. Where a member executes a written form of resignation, the Speaker, the Deputy Speaker or the two members upon receiving the resignation shall forthwith address a signed and sealed warrant to the clerk of the Legislative Assembly who shall transmit the warrant to the Commissioner, who shall issue a writ for an election to fill the vacancy pursuant to the Elections Act.

#### **Member may not resign until sworn in**

16. No person shall be deemed to be a member of the Legislative Assembly so as to be entitled to resign pursuant to this Act until he has been declared elected and taken an oath of allegiance.

**Notice to clerk of vacancy other than by resignation**

17. When a vacancy in the representation of any electoral district is created in any way other than by resignation, the Speaker or any two members of the Legislative Assembly may give notice of the vacancy to the clerk of the Legislative Assembly, who shall record the vacancy in the journals of the Legislative Assembly and transmit the notice to the Commissioner, who shall issue a writ to fill the vacancy pursuant to the Elections Act.

**No by-election prior to general election**

18. Notwithstanding sections 14, 15 and 17 no new writ shall issue to fill a vacancy that occurs within six months of the expiry of the time limited for the duration of the Legislative Assembly.

**Effect of general election on by-election**

19. Where the Legislative Assembly is dissolved after the issue of a new writ to fill a vacancy and before the election held pursuant to it, the writ shall thereupon be deemed to have been superseded and withdrawn.

**Effect of resignation on election proceedings**

20. The resignation of a member shall not affect the conduct or result of any proceedings in respect of that member or his election that are pending or that may thereafter be taken under this Act, the Controverted Elections Act or the Elections Act.

**Election of Speaker**

21. The Legislative Assembly, on its first assembling after a general election, shall proceed with all practicable speed to elect one of its members to be Speaker.

**Replacement of Speaker**

22. In case of a vacancy happening in the office of the Speaker by death, resignation or otherwise, the Legislative Assembly shall proceed with all practicable speed to elect another of its members to be Speaker.

**Deputy Speaker**

23. The Legislative Assembly may elect a Deputy Speaker, and in any case where the Speaker, from illness or other cause, finds it necessary to leave the chair during any part of the sittings of the Legislative Assembly in any day, he may call upon the Deputy Speaker or in his absence upon any member of the Legislative Assembly to take the chair and act as Speaker during the remainder of the day, or a part thereof, unless the Speaker himself resumes the chair before the close of the sittings of that day, and the Deputy Speaker or member so called upon shall take the chair and act as Speaker accordingly.

**Absence of the Speaker**

24. Where the Legislative Assembly is informed by the clerk at the table of the absence of the Speaker, the Deputy Speaker, if present, shall take the chair and shall perform the duties and exercise the authority of the Speaker in relation to all proceedings of the Legislative Assembly until the meeting of the Legislative Assembly on the next sitting day.

**Absence of the Speaker and Deputy Speaker**

25. Where the Legislative Assembly is informed by the clerk at the table of the absence of the Speaker and the Deputy Speaker, the Legislative Assembly shall elect a member to take the chair and act as Speaker for the day or for such longer period during the continuing absence of the Speaker and the Deputy Speaker as the Legislative Assembly may determine.

**Validity of proceedings in the absence of the Speaker**

26. Where, at any time during a session of the Legislative Assembly, the Speaker is absent from the Legislative Assembly and the Deputy Speaker or a member thereupon performs the duties and exercises the authority of the Speaker as hereinbefore provided, or pursuant to a resolution of the Legislative Assembly, every act done and proceeding taken in or by the Legislative Assembly in the exercise of its powers and authority is as valid and effectual as if the Speaker himself were in the chair.

**Standing orders**

27. The Legislative Assembly may adopt standing orders for the orderly conduct of its business, and may amend the standing orders from time to time.

**Decisions by majority vote**

28. Questions arising in the Legislative Assembly shall be decided by a majority of votes cast, and the Speaker shall not vote except as provided in section 29.

**Speaker's casting vote**

29. When the number of votes cast for and against a motion are equal, the Speaker shall give a casting vote.

**Offence**

30. No member of the Legislative Assembly shall receive or agree to receive any fee, compensation or reward, directly or indirectly, either alone or with another, for services rendered or to be rendered to any person, either by himself or another, in relation to the drafting, preparation or promotion of any bill, resolution, question, petition, proceeding, controversy, charge or other matter before the Legislative Assembly or a committee thereof, or in order to influence or to attempt to influence any member of the Legislative Assembly or a committee thereof.

**Penalty**

31.(1) A member violating section 30 is subject to a penalty of \$1,000 and the amount or value of the fee, compensation or reward received or agreed to be received by him.

(2) Any person who would be entitled to vote at an election under the Elections Act who has grounds to believe that a member is subject to a penalty under subsection (1) may commence an action in his own name in the Supreme Court for the penalty, and one-half of the penalty shall belong to the person bringing the action and one-half shall belong to the Yukon Consolidated Revenue Fund.

**Effect of offence**

32.(1) If judgement is recorded against a member under section 30, or if by resolution of the Legislative Assembly it is declared that a member has been guilty of a violation of section 30, the seat of the member shall thereupon become vacant.

(2) A member whose seat becomes vacant pursuant to subsection (1) shall be ineligible to be elected to or sit or vote in the Legislative Assembly during the term of the then current Legislative Assembly.

**Immunity of members**

33. No member of the Legislative Assembly is liable to any civil action or prosecution, arrest, imprisonment or damages by reason of any matter or thing brought by him before the Legislative Assembly or any committee thereof by petition, bill, resolution, motion or otherwise, or anything said by him before the Legislative Assembly or any committee thereof.

**Privilege of copies of reports**

34. In any civil proceedings or prosecution against a person for or on account of or in respect of the publication of any copy of any debates, journals, votes and proceedings or reports printed by or under the authority of the Legislative Assembly, the defendant at any stage of the proceedings may lay before the court

- (a) the debates, journals, votes and proceedings or reports and the published copy, and
- (b) a statutory declaration verifying the debates, journals, votes and proceedings or reports and declaring the copy to be a true copy,

and the court upon being satisfied as to the correctness of the statutory declaration shall immediately stay the civil proceedings, and the proceedings and every writ or process issued thereon shall thereupon terminate.

**Publishing of extracts of reports**

35.(1) Upon the trial of an action against a person for publishing an extract from or an abstract of any debates, journals, votes and proceedings or reports by or under the authority of the Legislative Assembly,

- (a) the debates, journals, votes and proceedings or reports may be given in evidence under the general issue or denial, and
- (b) it may be shown that the extract or abstract was published bona fide and without malice.

(2) If in the opinion of the court the extract or abstract was published bona fide and without malice, judgement shall be rendered or a verdict shall be entered for the defendant.

**Evidence**

36. In the proceedings referred to in sections 34 and 35 a copy of the debates, journals, votes and proceedings or reports of the Legislative Assembly printed or purporting to be printed by its order shall be admitted as evidence of the debates, journals, votes and proceedings or reports and of their contents by the court without any proof being given that the copies were so printed.

**Exemption from jury duty**

37. During a session of the Legislative Assembly or the 20 days preceding and the 20 days following the session,

- (a) all officers and employees of the Legislative Assembly, and
- (b) all witnesses summoned to attend before the Legislative Assembly or a committee thereof,

are exempt from serving or attending as jurors before any court of justice in the Yukon.

**Administration of oaths and affidavits**

38. Every member of the Legislative Assembly is ex officio a commissioner empowered to administer oaths and take and receive affidavits, declarations and affirmations in or outside the Yukon for use in the Yukon.

**ALLOWANCES AND SALARIES****Indemnity and expense allowances**

39.(1) Each member appointed to the Executive Council or to the Advisory Committee on Finance, or to both, shall be paid an indemnity of \$22,854 per annum and an expense allowance of \$11,427 per annum.

(2) An indemnity of \$22,854 per annum and an expense allowance of \$11,427 per annum shall be paid to each member to whom subsection (1) does not apply and who represents one of the following electoral districts:

- (a) Campbell;
- (b) Faro;
- (c) Hootalinqua;
- (d) Klondike;
- (e) Kluane;
- (f) Mayo;
- (g) Old Crow;
- (h) Tatchun;
- (i) Watson Lake.

(3) An indemnity of \$22,854 per annum and an expense allowance of \$8,979 per annum shall be paid to each member of the Legislative Assembly to whom subsection (1) does not apply and who represents one of the following electoral districts:

- (a) Whitehorse North Centre;
- (b) Whitehorse Porter Creek East;
- (c) Whitehorse Porter Creek West;
- (d) Whitehorse Riverdale North;
- (e) Whitehorse Riverdale South;
- (f) Whitehorse South Centre;
- (g) Whitehorse West.

(4) The expense allowances referred to in subsections (1), (2) and (3) are provided to pay for the expenses of that member incident to the discharge of his duties as a member.

(5) For the purpose of computing the amount of any allowances payable pursuant to this section, a member shall be deemed to have been a member from the polling day on which he was elected up to and including the earlier of

- (a) the day preceding the polling day following the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to be a member.

(6) From the indemnity payable to a member under this section a deduction of \$100 shall be made

- (a) for each day the member is absent from a sitting of the Legislative Assembly, and
- (b) for each day the member is absent from a sitting of a committee of which he is a member, where his absence is not excused by the rules of the committee providing for another member of the Legislative Assembly to take the place of the absent committee member.

(7) No deduction shall be made under subsection (6) in respect of any absence resulting from

- (a) the sickness of the member,
- (b) a sickness or death in the immediate family of the member,
- (c) any cause beyond the reasonable control of the member as determined by the Speaker, or
- (d) the attendance of the member at any meeting or event as a member of the Executive Council, as a representative of the Government of the Yukon or as a representative of the Legislative Assembly.

### **Speaker and Deputy Speaker**

40.(1) In addition to the amounts provided in section 39, there shall be paid

- (a) to the member elected Speaker, a salary of \$6,678 per annum,
- (b) to the member elected Deputy Speaker, a salary of \$3,339 per annum, and
- (c) to a member who is the chairperson of a select committee, a salary of \$2,226.

(2) For the purpose of computing the amount of salary payable under this section, a Speaker shall be deemed to occupy the position up to and including the earlier of

- (a) the day preceding the date fixed by proclamation for the beginning of the next sitting of the Legislative Assembly after the Legislative Assembly of which he is a member is dissolved, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

(3) For the purpose of computing the amount of salary payable under this section, a Deputy Speaker shall be deemed to occupy the position up to and including the earlier of

- (a) the day preceding the polling day following the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

**Executive Council and Advisory Committee on Finance**

41.(1) In addition to the amounts provided in section 39, there shall be paid to each member appointed to the Executive Council or to the Advisory Committee on Finance, or to both, a salary of \$22,260 per annum.

(2) For the purpose of computing the amount of salary payable under this section, each member appointed to the Executive Council shall be deemed to occupy his position on the Executive Council from and including the day of his appointment up to and including the earlier of

- (a) the day on which his appointment is terminated, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

(3) For the purpose of computing the amount of salary payable under this section, each member appointed to the Advisory Committee on Finance shall be deemed to occupy his position on the committee from and including the day of his appointment up to and including the earlier of

- (a) the day of the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he dies, resigns, is disqualified or otherwise ceases to occupy the position.

**Government Leader**

42.(1) In addition to the amounts provided in sections 39 and 41, the Government Leader shall be paid a salary of \$5,565 per annum.

(2) For the purpose of computing the amount of salary payable under this section, the Government Leader shall be deemed to occupy his position for the period that he is

- (a) the recognized leader of the party or coalition that forms the government, and
- (b) a member of the Executive Council.

**Leader of the Official Opposition**

43.(1) In addition to the amounts provided in section 39, the Leader of the Official Opposition shall be paid a salary of \$2,783 per annum.

(2) Every leader of a party, other than the Government Leader and the Leader of the Official Opposition, shall be paid, in addition to the amounts provided in section 39, a salary of \$1,113 per annum.

(3) For the purpose of computing the amount of salary payable under this section, a leader of a party, other than the Government Leader, shall be deemed to have occupied his position from the later of the polling day on which he was elected a member and the day on which he becomes leader, up to and including the earlier of

- (a) the day preceding the polling day following the dissolution of the Legislative Assembly of which he is a member, or
- (b) the day on which he resigns, dies, is disqualified or otherwise ceases to occupy the position.

**Payment of indemnities, etc.**

44. The indemnities, expense allowances and salaries mentioned in sections 39, 40, 41, 42 and 43 are payable every 14 days.

**Accommodation and travel expenses**

45.(1) Every member who is absent from his normal place of residence in order to attend a sitting of the Legislative Assembly, a meeting of a committee of the Legislative Assembly or any meeting or event as a representative of the Legislative Assembly, of the Speaker or of the Government of the Yukon, in his capacity as a member shall be

- (a) reimbursed for his actual expenditures for accommodation, and
- (b) paid an allowance for meals, incidental expenses and travelling expenses at the rate in force at the time for the public service.

(2) A member representing the electoral district of

- (a) Campbell,
- (b) Faro,
- (c) Hootalinqua,
- (d) Klondike,
- (e) Kluane,
- (f) Mayo,
- (g) Old Crow,
- (h) Tatchun, or
- (i) Watson Lake

who is absent from his normal place of residence in order to attend a meeting of the caucus of a party or to attend any meeting or event in his capacity as a member during a period when the Legislative Assembly is not sitting shall be paid an allowance for meals and incidental expenses at the rate in force at the time for the public service, and shall be reimbursed for his actual expenditures for accommodation.

(3) The maximum amount payable to a member under subsection (2) in each fiscal year is \$4,400.

(4) A member who is absent from his normal place of residence under subsection (2) shall be paid an allowance in respect of travelling expenses incurred at the rate in force at the time for the public service.

(5) An allowance may be paid to a member pursuant to subsection (4) in respect of not more than 24 return trips in each fiscal year.

(6) A reimbursement or allowance is payable to a member under this section only in respect of his time necessarily spent in attendance under subsection (1) or (2) and his time necessarily spent in travel.

(7) For the purposes of this section, every member of the Legislative Assembly or of the Advisory Committee on Finance shall be deemed to reside in the City of Whitehorse.



**Whitehorse residence costs**

46.(1) Notwithstanding subsections 45(1), 45(2) and 45(6), a member who qualifies for reimbursement of actual expenditures for accommodation under section 45 may be reimbursed for renting or leasing accommodation in the City of Whitehorse and shall be reimbursed under this section by delivering a notice in the prescribed form to the clerk of the Legislative Assembly.

(2) Where a member is reimbursed under this section, he is entitled to receive the amount certified to have been paid by him to a maximum of \$400 per month.

(3) Where a member is reimbursed under this section, the maximum amount payable to him in each fiscal year for meals and incidental expenses under subsection 45(3) is \$2,200.

**Visits to electoral districts**

47.(1) A member representing the electoral district of

- (a) Campbell,
- (b) Faro,
- (c) Hootalinqua,
- (d) Klondike,
- (e) Kluane,
- (f) Mayo,
- (g) Old Crow,
- (h) Tatchun, or
- (i) Watson Lake

who has been appointed to the Executive Council or to the Advisory Committee on Finance, or to both, when visiting his electoral district in his capacity as a member, shall be paid an allowance for meals and incidental expenses at the rate in force at the time for the public service, and shall be reimbursed for his actual expenditures for accommodation.

(2) The maximum amount payable to a member under subsection (1) in each fiscal year is \$2,200.

(3) A member who visits his electoral district under subsection (1) shall be paid an allowance in respect of his travelling expenses at the rate in force at the time for the public service.

(4) An allowance may be paid to a member pursuant to subsection (3) in respect of not more than 12 return trips in each fiscal year.

**Dissolution of Legislative Assembly**

48.(1) No reimbursement or allowance is payable to a member of the Legislative Assembly under section 45, 46 or 47 in respect of expenditures made or expenses incurred between the dissolution of a Legislative Assembly and the day of the official addition of the votes pursuant to the Elections Act at the next ensuing general election.

(2) Notwithstanding subsection (1), a member is entitled to be paid a reimbursement or an allowance under section 45, 46 or 47 where the expenditures were made and the expenses incurred in respect of an absence or visit begun before the dissolution of Legislative Assembly, but in no event shall any reimbursement or allowance be paid in respect of the prolongation of an absence or visit after the member becomes aware of the dissolution.

### **Speaker and Deputy Speaker**

**49.** In respect of travel in the performance of their duties, the Speaker and Deputy Speaker shall be paid an allowance for meals, incidental expenses and travel at the rate in force at the time for the public service, and shall be reimbursed for their actual expenditures for accommodation.

### **Workers Compensation Act**

**50.** Every member of the Legislative Assembly shall be deemed to be a worker within the meaning of the Workers Compensation Act while carrying out his duties as a member, travelling in connection with the business of, or representing the Legislative Assembly or a committee thereof, the caucus of a party, the Executive Council or the Advisory Committee on Finance, and any compensation to which the member becomes entitled shall be paid by the Workers' Compensation Board.

### **Forms**

**51.** The Commissioner in Executive Council may prescribe forms for the purposes of this Act.

### **Annual report**

**52.** The Commissioner in Executive Council shall, within six months after the end of each fiscal year, prepare a report summarizing the activities and affairs of each department of the Government of the Yukon in that year and he shall transmit the report to the Government Leader who shall immediately table the report in the Legislative Assembly if it is sitting, and otherwise he shall table the report in the Legislative Assembly within 15 days after the commencement of the next sitting.

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# **CHAPTER 103**

## **LEGISLATIVE ASSEMBLY RETIREMENT ALLOWANCES ACT**

### **Interpretation**

1.(1) In this Act, ‘‘member’’ means a member of the Legislative Assembly.

(2) For the purposes of this Act,

- (a) a person does not cease to be a member by reason only of a dissolution of the Legislative Assembly, and
- (b) a person who, immediately before a dissolution of the Legislative Assembly, was a member shall cease to be a member, effective the day on which the general election was held, if
  - (i) he is not elected as a member at the general election next following the dissolution, or
  - (ii) having been elected as a member he does not take office as a member in the next Legislative Assembly.

### **Retirement allowance**

2. A retirement allowance shall be paid in accordance with this Act to a person who, being a member, ceases to be a member.

### **Amount of allowance**

3. Subject to section 5, where a person, at the time he ceases to be a member, has served at least six years as a member of the Legislative Assembly there shall be paid to him, when he attains the age of 55 years and during his lifetime, an annual retirement allowance in an amount equal to the number of years of service for which he has served multiplied by two and one-half percent of the total of the current indemnity and expense allowance payable to a member representing an electoral district of the same type as the former member was representing when he ceased to be a member.

### **Amount on death of member**

4.(1) Upon the death of a member who has served less than six years as a member of the Legislative Assembly there shall be paid to his estate, or to his beneficiary designated by him for the purpose in a testamentary instrument, a lump sum calculated by multiplying the total of the current indemnity and expense allowance of the member by 15 percent.

(2) Upon the death of a member who has served at least six years as a member of the Legislative Assembly there shall be paid to his estate, or to his beneficiary designated by him for the purpose in a testamentary instrument, a lump sum calculated by multiplying the total of the current indemnity and expense allowance of the member by 15 percent and by the number of years of service of the member in the Legislative Assembly.

(3) Upon the death of a former member who has served at least six years as a member and who would, upon attaining the age of 55 years, be entitled to a retirement allowance under this Act, there shall be paid to his estate, or to his beneficiary designated by him for the purpose in a testamentary instrument, a lump sum calculated by multiplying the total of the current indemnity and expense allowance payable to a member representing an electoral district of the same type as the former member was representing when he ceased to be a member by 15 percent and by the number of years of service as a member.

**Discontinuance of allowance**

5. A retirement allowance that is otherwise payable to a person under this Act shall be discontinued while that person is a member of the Legislative Assembly.

**Payment out of Y.C.R.F.**

6. Amounts payable under this Act shall be a charge upon and be paid out of the Yukon Consolidated Revenue Fund.

**Regulations**

7. The Commissioner in Executive Council may make regulations

- (a) providing for the payment of the annual retirement allowance through instalments payable at intervals of less than one year;
  - (b) for any other purpose necessary to give effect to this Act.
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# CHAPTER 104

## LIMITATION OF ACTIONS ACT

### Interpretation

#### 1. In this Act,

- “action” means any civil proceeding;
- “assurance” means any transfer, deed or instrument, other than a will, by which land may be conveyed or transferred;
- “disability” means disability arising from infancy or a mental disorder;
- “heirs” includes the persons entitled beneficially to the real estate of a deceased intestate;
- “land” includes all corporeal hereditaments, and any share or any freehold or leasehold estate or any interest in any of them;
- “mortgage” includes charge, “mortgagor” includes chargor, and “mortgagee” includes chargee;
- “proceedings” includes action, entry, taking of possession, distress and sale proceedings under an order of a court or under a power of sale contained in a mortgage or conferred by Act;
- “rent” means a rent service or rent reserved upon a demise;
- “rent charge” includes all annuities and periodical sums of money charged upon or payable out of land.

### PART 1

#### LIMITATION PERIODS

##### Periods of limitations

2.(1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned:

- (a) actions for penalties imposed by any Act brought by an informer suing for himself alone or for Her Majesty as well as for himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose;
- (b) actions for penalties, damages or sums of money in the nature of penalties given by any Act to Her Majesty or the person aggrieved, or partly to one and partly to the other, within two years after the cause of action arose;
- (c) actions for defamation, whether libel or slander, within two years of the publication of the libel or the speaking of the slanderous words, or where special damage is the gist of the action, within two years after the occurrence of such damage;
- (d) actions for trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from negligence, or for false imprisonment, or for malicious prosecution or for seduction within two years after the cause of action arose;

- (e) actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose;
- (f) actions for the recovery of money, except in respect of a debt charged upon land, whether recoverable as a debt or damages or otherwise, and whether on a recognizance, bond, covenant or other specialty or on a simple contract, express or implied, and actions for an account or for not accounting, within six years after the cause of action arose;
- (g) actions grounded on fraudulent misrepresentation, within six years from the discovery of the fraud;
- (h) actions grounded on accident, mistake or other equitable ground or relief not hereinbefore specially dealt with, within six years from the discovery of the cause of action;
- (i) actions on a judgment or order for the payment of money, within ten years after the cause of action thereon arose;
- (j) any other action not in this Act or any other Act specially provided for, within six years after the cause of action arose.

(2) Nothing in this section extends to any action where the time for bringing the action is by an Act specially limited.

**Concealed fraud**

3. When the existence of a cause of action has been concealed by the fraud of the person setting up this Part or Part 2 as a defence, the cause of action shall be deemed to have arisen when the fraud was first known or discovered.

**Item in account**

4. No claim in respect of an item in an account which arose more than six years before the commencement of the action is enforceable by action by reason only of some other claim in respect of another item in the same account having arisen within six years next before the commencement of the action.

**Person under disability**

5. Where a person entitled to bring any action mentioned in paragraphs 2(1)(c) to (i) is under disability at the time the course of action arises, he may bring the action within the time limited by this Act with respect to such action or at any time within two years after he first ceased to be under disability.

**Acknowledgments and part payment**

6.(1) Whenever any person who is, or would have been but for the effluxion of time, liable to an action for the recovery of money as a debt, or his agent in that behalf

- (a) conditionally or unconditionally promises his credit or the agent of the creditor in writing signed by the debtor or his agent to pay the debt,
- (b) gives a written acknowledgment of the debt signed by the debtor or his agent to his creditor or the agent of the creditor, or
- (c) makes a part payment on account of the principal debt or interest thereon, to his creditor or the agent of the creditor,

an action to recover any such debt may be brought within six years from the date of the promise, acknowledgment or part payment, as the case may be, notwithstanding that the action would otherwise be barred under this Act.

(2) A written acknowledgment of a debt or a part payment on account of the principal debt or interest thereon has full effect whether or not a promise to pay can be implied therefrom and whether or not it is accompanied by a refusal to pay.

#### **Joint contractors and covenantors**

7. Where there are two or more joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators of any debtor, contractor, obligor or covenantor, no such joint debtor, joint contractor, joint obligor or joint covenantor, or executor or administrator shall lose the benefit of this Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed, or by reason of any payment of any principal or interest made, by any other or others of them.

#### **Recovery against those acknowledging**

8. In actions commenced against two or more such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Act, as to one or more of such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he is entitled to recover, and for the other defendant or defendants against the plaintiff.

#### **Endorsements of payments insufficient**

9. No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Act.

#### **Part applies to counter-claims**

10. This Part applies to any claim of the nature mentioned in this Part alleged by way of counterclaim or set-off on the part of any defendant.

## **PART 2**

### **CHARGES ON LAND, LEGACIES, ETC.**

#### **Recovery of money charged on land**

11.(1) No proceedings shall be taken to recover any rent charge or any sum of money secured by any mortgage or otherwise charged upon or payable out of any land or rent charge or to recover any legacy, whether it is or is not charged upon land, or to recover the personal estate or any share of the personal estate of any person dying intestate and possessed by his personal representative, but within ten years next after a present right to recover the same accrued to some person capable of giving a discharge therefor, or a release thereof, unless prior to the expiry of such ten years some part of the rent charge, sum of money, legacy or estate or

share or some interest thereon has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to such rent charge, sum of money, legacy, estate or share signed by any person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the same or his agent, and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

(2) In the case of a reversionary interest in land, no right to recover the sum of money charged thereon shall be deemed to accrue until the interest has fallen into possession.

**Recovery of money payable on agreement of sale**

12. No proceedings shall be taken to recover any sum of money payable under an agreement for the sale of land but within ten years after a present right to recover the same accrued to some person entitled to receive the same, or capable of giving a release thereof, unless prior to the expiry of such ten years some part of the sum of money, or some interest thereon, has been paid by a person bound or entitled to make a payment thereof, or his agent in that behalf, to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to receive such sum of money signed by the person so bound or entitled, or his agent in that behalf, has been given to a person entitled to receive the same or his agent, and in case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

**Recovery of rent and interest charged on land**

13.(1) No arrears of rent, or of interest in respect of any sum of money to which section 11 or 12 applies or any damages in respect of such arrears shall be recovered by any proceedings, but within six years, next after a present right to recover the same accrued to some person capable of giving a discharge therefor or a release thereof unless, prior to the expiry of such six years, some part of the arrears has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent or some acknowledgment in writing of the right to the arrears signed by a person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the arrears or his agent, and in such case no proceeding shall be taken but within six years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

(2) Subsection (1) does not apply to an action for redemption or similar proceedings brought by a mortgagor or by any person claiming under him.

**Recovery by prior mortgagee in possession**

14. Where any prior mortgagee has been in possession of any land within one year next before an action is brought by any person entitled to a subsequent mortgage on the same land, the person entitled to the subsequent mortgage may recover in such action the arrears of interest which have become due during the whole time the prior mortgagee was in such possession or receipt, although that time may have exceeded such term of six years.



**Recovery of sums secured by express trust**

15.(1) No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent charged, though secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable or so secured, or any damages in respect of such arrears, except within the time which the same would be recoverable if there were not any such trust.

(2) Subsection (1) does not operate so as to affect any claim of a cestui que trust against his trustee for property held on an express trust.

## PART 3

### LAND

**Part subject to Land Titles Act**

16. This Part is subject to the provisions of the Land Titles Act (Canada).

**Recovery of land**

17. No person shall take proceedings to recover any land but within ten years next after the time at which the right to do so first accrued to some person through whom he claims, hereinafter called “predecessor” or if such right did not accrue to a predecessor then within ten years next after the time at which such right first accrued to the person taking the proceedings, hereinafter called “claimant”.

**Right accrues on dispossession**

18. Where the claimant or a predecessor has in respect of the estate or interest claimed been in possession of the land or in receipt of the profits thereof and has while entitled thereto been dispossessed or has been dispossessed or has discontinued such possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession or at the last time at which any such profits were so received.

**Right accrues on death of predecessors**

19. Where the claimant claims the estate or interest of a deceased predecessor who was in possession of the land or in receipt of the profit thereof in respect of the same estate or interest at the time of his death and was the last person entitled to such estate or interest who was in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of the death of the predecessor.

**Right accrues according to assurance**

20. Where the claimant claims in respect of an estate or interest in possession, granted, appointed, or otherwise assured to him or a predecessor by a person being in respect of the same estate or interest in the possession of the land or in receipt of the profits thereof and no person entitled under the assurance has been in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the claimant or his predecessor became entitled to such possession or receipt by virtue of the assurance.

**Right accrues on forfeiture**

21. Where the claimant or the predecessor becomes entitled by reason of forfeiture or breach of condition, then the right to take proceedings to recover the land shall be deemed to have first accrued whenever the forfeiture was incurred or the condition was broken.

**When right accrues as to future estate**

22. Where the estate or interest claimed has been an estate or interest in reversion or remainder or other future estate or interest, including therein an executory devise, and no person has obtained the possession of the land or is in receipt of the profits thereof in respect of the estate or interest, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the estate or interest became an estate or interest in possession, by the determination of any estate or estates in respect of which the land has been held or the profits thereof have been received notwithstanding the claimant or the predecessor has at any time previously to the creation of the estate or estates that has determined been in the possession of the land or in receipt of the profits thereof.

**Further as to future estate**

23. Where the person last entitled to any particular estate on which any future estate or interest was expectant was not in possession of the land or in receipt of the profits thereof at the time when his interest determined, no proceedings to recover the land shall be taken by any person becoming entitled in possession to a future estate or interest but within ten years next after the time when the right to take proceedings first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of these two periods is the longer.

**Proceedings for subsequent interest also barred**

24. Where the right to take proceedings to recover the land has been barred no proceedings shall be taken by any person afterwards claiming to be entitled to the same land in respect of any subsequent estate or interest under any will or assurance executed or taking effect after the time when a right to take proceedings first accrued to the owner of the particular estate whose interest has so determined.

**Estate in possession barred, future estate also barred**

25. When the right of any person to take proceedings to recover any land to which he may have been entitled for an estate or interest in possession entitling him to take proceedings has been barred by the determination of the period which is applicable, and such person has at any time during the said period been entitled to any other estate, interest, right or possibility in reversion, remainder or otherwise in or to the same land no proceedings shall be taken by him or any person claiming through him to recover the land in respect of such other estate, interest, right or possibility, unless in the meantime the land has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of the estate or interest in possession.

**Where right of forfeiture not claimed**

26. When the right to take proceedings to recover any land first accrued to a claimant or a predecessor by reason of any forfeiture or breach of condition, in respect of an estate or interest in reversion or remainder and the land has not been recovered by virtue of such right, the right

to take proceedings shall be deemed to have first accrued at the time when the estate or interest became an estate or interest in possession.

### **Rent wrongfully received**

27. Where a person is in possession of land, or in receipt of the profits thereof by virtue of a lease in writing, by which a rent amounting to the yearly sum or value of \$4 or upwards is reserved, and the rent reserved by the lease has been received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease, and no payment in respect of the rent reserved by the lease has afterwards been made to the person rightfully entitled thereto, the right of the claimant or his predecessor to take proceedings to recover the land after the determination of the lease shall be deemed to have first accrued at the time at which the rent reserved by the lease was first so received by the person wrongfully claiming as aforesaid and no such right shall be deemed to have first accrued upon the determination of the lease to the person rightfully entitled.

### **Right accrues at end of first year**

28. Where a person is in possession of land or in receipt of the profits thereof as a tenant from year to year, or other period, without a lease in writing, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time, prior to his right to take proceedings being barred under any other provisions of this Act, when any rent payable in respect of such tenancy was received by the claimant or his predecessor or the agent of either whichever last happens.

### **Tenancy at will**

29.(1) Where any person is in possession of any land or in receipt of the profits thereof as tenant at will, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued either at the determination of the tenancy or at the expiration of one year next after its commencement, at which time, if the tenant was then in possession, the tenancy shall be deemed to have been determined.

(2) No mortgagor or cestui que trust under an express trust shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of this section.

### **Time not to run while fraud concealed**

30.(1) In every case of concealed fraud by the person setting up this Part as a defence, or by some other person through whom such first mentioned person claims, the right of any person to bring an action for the recovery of land of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered.

(2) Nothing in subsection (1) enables an owner of land to bring an action for the recovery of such land, or for setting aside a conveyance thereof, on account of fraud against a purchaser in good faith for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase, did not know, and had no reason to believe, that any such fraud had been committed.

**Acknowledgment equivalent to possession**

31. When an acknowledgment in writing of the title of a person entitled to any land signed by the person in possession of the land or in receipt of the profits thereof or his agent in that behalf has been given to him or his agent prior to his right to take proceedings to recover the land having been barred under the provisions of this Act, then the possession or receipt of or by the person by whom the acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment was given at the time of giving the same, and the right if the last mentioned person, or of any person claiming through him, to take proceedings shall be deemed to have first accrued at and not before the time at which the acknowledgment, or at the last of the acknowledgments, if more than one, was given.

**PART 4****MORTGAGES OF REAL AND PERSONAL PROPERTY****REDEMPTIONS****Where mortgagee in possession barred**

32.(1) When a mortgagee or a person claiming through a mortgagee has obtained the possession of any property real or personal comprised in a mortgage or is in receipt of the profits of any land therein comprised the mortgagor or any person claiming through him shall not bring any action to redeem the mortgage but within ten years next after the time at which the mortgagee or a person claiming through the mortgagee obtained such possession or first received any such profits unless prior to the expiry of such ten years an acknowledgment in writing of the title of the mortgagor or of his right to redeem is given to the mortgagor or some person claiming his estate or interest or to the agent of such mortgagor or person signed by the mortgagee or the person claiming through him or the agent in that behalf of either of them; in that case, the action shall not be brought but within ten years next after the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

(2) Where there is more than one mortgagor or more than one person claiming through the mortgagor or mortgagors the acknowledgment, if given to any of the mortgagors or persons or his or their agent, shall be as effectual as if the same had been given to all the mortgagors or persons.

(3) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee or mortgagees, an acknowledgment signed by one or more of such mortgagees or person or his or their agent in that behalf shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or property by, through or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any undivided or divided part of the money or property.

(4) Where such of the mortgagees or persons mentioned in this section as have given such acknowledgment are entitled to a divided part of the property comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors are entitled to redeem the same divided part of the property on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of the divided part of the property bears to the value of the whole of the property comprised in the mortgage.

### **FORECLOSURE OR SALE**

#### **Foreclosure or sale**

**33.** No mortgagee or person claiming through a mortgagee shall take proceedings for foreclosure or sale under a mortgage of real or personal property or to recover the property mortgaged but within ten years next after the right to take the proceedings first accrued to the mortgagee, or if the right did not accrue to the mortgagee, then within ten years after the right first accrued to a person claiming through the mortgagee.

#### **Payment or acknowledgment by person bound or entitled**

**34.** When any person bound or entitled to make payment of the principal money or interest secured by a mortgage of property real or personal or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings for foreclosure or sale or to take proceedings to recover the property, pays any part of such money or interest to a person entitled to receive the same, or his agent, the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment of the last of the payments, if more than one, was made, or if any acknowledgment of the nature described in section 31 was given at any time prior to the expiry of ten years from the accrual of the right to take proceedings, then at the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

#### **Personal Property Security Act**

**35.** This Part is subject to the Personal Property Security Act.

## **PART 5**

### **AGREEMENTS FOR THE SALE OF LAND**

#### **Purchaser of land**

**36.(1)** No purchaser of land, or any person claiming through him, shall bring any action in respect of the agreement for the sale thereof but within ten years after the right to bring the action first accrued to the purchaser, or if the right did not accrue to the purchaser, then within ten years after the right first accrued to a person claiming through the purchaser.

(2) When any person bound or entitled to make payment of the purchase money, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to bring the action pays any part of the money payable under the agreement of sale to a person entitled to receive the same or his agent, or if any acknowledgment in writing of the right of the purchaser or person claiming through him to the land, or to make such payments, was given prior to the expiry of such ten years to the purchaser or person claiming through him, or to the

agent of such purchaser or person, signed by the vendor or the person claiming through him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at the time at which the payment or the last of the payments, if more than one, was made, or the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

#### **Vendor of land**

**37.** No vendor of land or person claiming through him shall take proceedings for cancellation, determination or rescission of the agreement for the sale of the land, or for foreclosure or sale thereunder or to recover the land, but within ten years after the right to take the proceedings first accrued to the vendor, or if the right did not accrue to the vendor, then within ten years after the right first accrued to a person claiming through the vendor.

#### **Vendor's rights accrue**

**38.** When any person bound or entitled to make payment of the purchase money or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings mentioned in section 37, pays any part of the money payable under the agreement of sale to a person entitled to receive the same, or his agent, or if, at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the vendor or person claiming through him to the land or to receive the payment, was given to the vendor or person claiming through him, or to the agent of such vendor or person, signed by the purchaser or the person claiming through him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at, and not before, the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment, or last of the acknowledgments, if more than one was given.

## **PART 6**

### **CONDITIONAL SALES OF GOODS**

#### **Definitions**

**39.** In this Part,

“buyer” means the person who buys or hires goods by a conditional sale;

“conditional sale” means

- (a) any contract for the sale of goods under which possession is or is to be delivered to the buyer and the property in the goods is to vest in him at a subsequent time upon payment of the whole or part of the price or the performance of any other condition, or
- (b) any contract for the hiring of goods by which it is agreed that the hirer shall become, or have the option of becoming, the owner of the goods upon full compliance with the terms of the contract;

“goods” means all chattels personal other than things in action or money, and includes emblements, industrial growing crops, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

“seller” means the person who sells or lets to hire goods by a conditional sale.

**Seller's rights**

40. No seller shall take proceedings for the sale of or to recover any goods the subject of a conditional sale but within ten years after the right to take the proceedings first accrued to the seller or, if the right did not accrue to the seller, then within ten years after the right accrued to a person claiming through him.

**When rights accrue**

41. When any person bound or entitled to make payment of the price, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take the proceedings pays any part of the price or interest to a person entitled to receive the same, or his agent, or if at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the seller or person claiming through him to the goods or to receive the payment was given to the seller or person claiming through him, or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment or last of the acknowledgments, if more than one was given.

**Personal Property Security Act**

42. This Part is subject to the Personal Property Security Act.

## **PART 7 GENERAL**

**Entry, claim and profits on land**

43.(1) No person shall be deemed to have been in possession of land, within the meaning of this Act, merely by reason of having made an entry thereon.

(2) No continual or other claim upon or near any land shall preserve any right of making an entry or distress or bringing an action.

(3) The receipt of the rent payable by a tenant at will, tenant from year to year or other lessee, shall as against such lessee or any person claiming under him, subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act.

**Expiry of right of action terminates title**

44. At the determination of the period limited by this Act, to any person for taking proceedings to recover any land, rent charge or money charged on land, the right and title of such person to the land, or rent charge or the recovery of the money out of the land shall be extinguished.

**Administrator deemed claimant from death of deceased**

45. For the purpose of Parts 2, 3 and 4, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration.

**Persons under disability**

46.(1) When at the time at which the right to take any proceedings referred to in Part 2, 3 or 4 first accrued to any person who was under disability, such person or a person claiming through him may, notwithstanding anything in this Act, take proceedings at anytime within six years after the person to whom the right first accrued first ceased to be under disability or died, whichever event first happened, except that if he died without ceasing to be under disability, no further time to take proceedings shall be allowed by reason of the disability of any other person.

(2) Notwithstanding anything in this section, no proceedings shall be taken by a person under disability at the time the right to do so first accrued to him or by any person claiming through him, but within 30 years next after that time.

**Return to the Yukon**

47. In respect of a cause of action as to which the time for taking proceedings is limited by this Act other than those mentioned in paragraphs 2(1)(a) and (b), if a person is out of the Yukon at the time a cause of action against him arises within the Yukon, the person entitled to the action may bring the same within two years after the return of the first mentioned person to the Yukon or within the time otherwise limited by this Act for bringing the action.

**Joint debtors**

48.(1) Where a person has a cause of action against joint debtors, joint contractors, joint obligors or joint covenantors, he shall not be entitled to any time within which to commence such action against such of them as were within the Yukon at the time the cause of action accrued by reason only that one or more of them was at such time out of the Yukon.

(2) A person having such cause of action is not barred from commencing an action against a joint debtor, joint contractor, joint obligor or joint covenantor who was out of the Yukon at the time the cause of action accrued, after his return to the Yukon by reason only that judgment has been already recovered against such of the joint debtors, joint contractors, joint obligors or joint covenantors as were at such time within the Yukon.

**No right to use of light by prescription**

49. No right to the access and use of light or any other easement, right in gross or profit a prendre shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to November 20, 1954.

**Refusal of relief because of acquiescence**

50. Nothing in this Act shall be construed to interfere with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act.



# CHAPTER 105

## LIQUOR ACT

### Interpretation

1.(1) In this Act,

- “analyst” means an analyst designated for the purposes of the Food and Drugs Act (Canada) or an analyst employed by the Government of Canada or a government of a province and having authority to make analysis for public purposes;
- “bedroom” means a furnished and serviced bedroom regularly available for the accommodation of the travelling public;
- “beer” means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, hops, or any similar product in drinkable water;
- “board” means the board of directors of the Yukon Liquor Corporation established pursuant to section 2;
- “corporation” means the Yukon Liquor Corporation established pursuant to section 2;
- “general manager” means the general manager of the Yukon Liquor Corporation appointed pursuant to section 8;
- “inspector” means a person appointed as an inspector pursuant to this Act and includes a member of the Royal Canadian Mounted Police engaged in the enforcement of this Act;
- “intoxicated” and “intoxicated condition” each mean the condition a person is in when his or her capabilities are so impaired by liquor that he or she is likely to cause injury to himself or herself or be a danger, nuisance or disturbance to others;
- “licence” means a licence issued under this Act and includes a permit issued under this Act;
- “licensed premises” means premises in respect of which a licence has been granted and includes any building or other place appertaining to such premises;
- “licensee” means a person named as a licensee in a licence and includes a person named as a permittee in a permit;
- “liquor” means
- (a) alcohol and alcoholic, spirituous, fermented malt or other intoxicating liquor, or a combination or mixture thereof,
  - (b) a mixed drink part of which is fermented, spirituous, vinous or otherwise intoxicating, and
  - (c) any other intoxicating drink, drinkable liquid, preparation or mixture that is fit for human consumption;
- “minor” means a minor as described in the Age of Majority Act;
- “package” means any container, bottle, vessel or other receptacle used for holding liquor;
- “permit” means a permit to sell or serve liquor pursuant to this Act;
- “public place” means any place to which the public have access as a right or by invitation, expressed or implied, and includes a vehicle in a public place;
- “residence” means
- (a) a building or part of a building that is actually and bona fide occupied and used by the owner, lessee or tenant solely as a private dwelling, together with the lands and buildings appurtenant thereto that in fact are normally and reasonably used as part of the living accommodation,

- (b) a private guest room in a hotel or motel that is actually and bona fide occupied as such by a guest of the hotel or motel,
- (c) a camper unit, trailer or tent that is actually and bona fide occupied by the owner, lessee or tenant as a private dwelling together with the lands immediately appurtenant thereto that in fact are reasonably used as part of the living accommodation, or
- (d) a vessel that is actually and bona fide used by the owner, lessee or tenant as a private dwelling;

“sale” in relation to liquor includes exchange, barter or traffic and the selling, supplying or distribution by any means of liquor

- (a) by any partnership or by any club whether incorporated or unincorporated, or
- (b) to any member of such partnership or club;

“spirits” means any beverage that contains alcohol obtained by distillation, mixed with drinkable water and other substances in solutions, and includes brandy, rum, whiskey, gin, vodka and liqueurs;

“sports stadium” means an establishment with stepped rows of seats designed and used for presentation of a sporting or athletic event or spectacle, and includes an amphitheatre or arena;

“vehicle” means any means of transportation by land, water or air and includes any motor car, automobile, truck, tractor, aircraft, vessel, boat, launch, canoe or any other thing used in any way for transportation;

“wine” means any liquor obtained by the fermentation of the natural sugar contents of fruit, including grapes, apples, berries or any other agricultural product containing sugar including honey and milk.

(2) For the purposes of the first paragraph of the definition of liquor in subsection (1), any liquor that contains more than two and one-half percent by volume of absolute alcohol at 16 degrees Celsius shall be deemed to be intoxicating.

## **YUKON LIQUOR CORPORATION**

### **Yukon Liquor Corporation**

2.(1) There shall be a corporation entitled the “the Yukon Liquor Corporation” consisting of those persons who from time to time comprise the board of directors.

(2) The members of the board of directors of the Yukon Liquor Corporation shall be not less than three in number and shall be appointed by the Commissioner in Executive Council to hold office at pleasure for a period not exceeding three years from the date of their appointment.

(3) A retiring board member is eligible for reappointment.

(4) In the event of the absence or incapacity of a member of the board, the Commissioner in Executive Council may appoint a person to take the place of that member for such period of time as he deems fit.

(5) Where a casual vacancy occurs in the board, the Commissioner in Executive Council may appoint a person to fill the vacancy for the unexpired portion of the retiring member's term of office.

(6) No vacancy on the board impairs the right of the remaining member or members to act until the vacancy is filled.

(7) Where a licensee appeals a suspension of his licence pursuant to subsection 16(3) and a quorum of the board is not available to hear the appeal summarily, a member of the board may, with the consent of the appellant and the general manager, hear the appeal and in such case the member hearing the appeal has all the jurisdiction in respect of the matter as a quorum of the board.

(8) The board shall choose a member from among their number to be chairperson.

(9) Except as provided by subsection (7), a majority of the board shall constitute a quorum.

(10) The board may make bylaws regulating its proceedings and generally for the conduct and management of the affairs of the corporation.

### **Remuneration**

3. The Commissioner in Executive Council shall fix

- (a) the remuneration to be paid to the members of the board, and
- (b) the travelling and living expenses to be paid to the members of the board in connection with the performance of their duties when absent from their ordinary place of residence.

### **No action against board members**

4. No action or proceedings shall be taken against any member or members of the board or in the name or names of the members of the board for anything done or omitted to be done in or arising out of the performance of his or their duties under this Act.

### **Conflict of interest**

5.(1) No member shall be directly or indirectly interested or engaged in any business or undertaking dealing in liquor in the Yukon

- (a) as owner, part owner, partner, member of a syndicate, shareholder, agent or employee, or
- (b) for his own benefit or in any capacity for some other person.

(2) No member of the board and no person appointed pursuant to section 8 shall solicit or receive directly or indirectly any commission, remuneration or gift of any kind from a person or corporation having sold, selling or offering liquor for sale to the corporation pursuant to this Act, or from any applicant for a licence.

### **Administration**

6. The corporation shall administer and enforce this Act.

**Powers of the corporation**

7. Subject to this Act and the regulations, the corporation has the sole power and jurisdiction to

- (a) establish and operate liquor stores and warehouses,
- (b) fix the price at which liquor may be sold at liquor stores,
- (c) buy, import, possess and sell liquor,
- (d) control the sale, advertising, storage, distribution, transport and delivery of liquor,
- (e) issue, refuse, cancel or suspend licences and permits,
- (f) determine the classes, varieties and brands of liquor to be kept for sale at liquor stores,
- (g) control the conduct, operation and equipment of any premises where liquor is sold pursuant to this Act,
- (h) control the alcoholic content of liquor and the amount to be purchased at one time,
- (i) control the types and markings of glasses used for serving liquor in licenced premises,
- (j) determine the liquor purchase records to be kept by licensees,
- (k) inquire into any matter relating to or arising from the operation of this Act,
- (l) control and regulate the business activities of agents, representatives and employees of liquor manufacturers and distributors, and
- (m) do all such things as are deemed necessary or advisable for the purpose of carrying this Act into effect.

**Management and staff of the corporation**

8.(1) There shall be a general manager of the corporation who shall be the chief executive officer and shall be charged with the general direction, supervision and control of the business of the corporation and shall under the general direction of the board administer this Act and supervise persons engaged in the administration of this Act and the regulations.

(2) The general manager has signing authority for all expenditures, orders, contracts, written notices, directions and recommendations on behalf of the board.

(3) The general manager may, subject to approval by the board, enter into arrangements with another liquor board, commission or similar body in a province to supply liquor to a liquor store in that province where it is not feasible for that province to do so.

(4) The provisions of the Public Service Commission Act shall apply to all persons other than the members of the board engaged in the administration of this Act.

**Revenue and expenditures**

9.(1) All money received from the sale of liquor and from licence fees, permits, or any other money derived from the administration of this Act and the regulations shall be deposited to the credit of a special account of the Yukon Consolidated Revenue Fund known as the Liquor Corporation Fund.

(2) The Liquor Corporation Fund shall be in such chartered bank as may be designated by the Commissioner in Executive Council.

(3) From and out of the Liquor Corporation Fund there may be paid all expenses incurred in the administration of this Act including, without limiting the generality of the foregoing,

- (a) the cost of all liquor purchased pursuant to the Act,
- (b) the cost of transporting, storing and insuring such liquor,
- (c) the rental of lands, buildings or equipment required for storing liquor, liquor stores, offices and the cost of maintaining such lands, buildings or equipment, including insurance thereon,
- (d) the costs of administering offices and liquor stores, including the rental of equipment, furniture and supplies,
- (e) the remuneration of persons appointed under this Act for the administration of this Act and the payment of their necessary travelling and removal expenses,
- (f) the employer's share of unemployment insurance, workers' compensation and other assessments in respect of the persons referred to in paragraph (e),
- (g) the printing of licences, permits, listings, notices and other stationery required for the purposes of this Act,
- (h) the payment of such expenses as is deemed necessary concerning any hearing held pursuant to this Act, and
- (i) any other necessary expenses pursuant to this Act.

(4) All property, whether real or personal, all money acquired, administered, possessed or received by the corporation and all profits earned in the administration of this Act or regulations shall belong to the Government of the Yukon.

**Transfer of revenue to Y.C.R.F.**

10. The corporation shall, at the beginning of each month of the fiscal year, transfer the estimated net revenue of its previous month's operation from the Liquor Corporation Fund to the Treasurer, but the total annual amount so transferred shall not exceed the net revenue of the fiscal year established by audit and the amount so established shall be adjusted to the amount to be transferred in the transfer covering the final month of each fiscal year.

**Audit**

11.(1) The accounts and financial transactions of the corporation are subject to the audit of the Auditor General of Canada, and for the purpose he is entitled

- (a) to have access to all records, documents, books, accounts and vouchers of the corporation, and
- (b) to require from officers of the corporation such information as he deems necessary.

(2) The Auditor General of Canada shall report annually to the Executive Council Member the results of his examination of the accounts and financial statements of the corporation, and the report shall state whether, in this opinion,

- (a) the financial statements represent fairly the financial position of the corporation at the end of the financial year and the results of its operations for that year in accordance with the accounting policies of the corporation applied on a basis consistent with that of the immediately preceding year,
- (b) proper books of account have been kept and the financial statements are in agreement with the books of account, and

- (c) the transactions of the corporation that have come under his notice are within the powers of the corporation under this Act or any other Act that applies to the corporation.

(3) In his report the Auditor General shall call attention to any other matter within the scope of his examination that in his opinion should be brought to the attention of the Executive Council Member.

(4) The Auditor General from time to time may make to the corporation or the Commissioner in Executive Council such other reports as he considers necessary or as the Executive Council Member may require.

(5) The annual report of the Auditor General shall be included in the report referred to in section 13.

**Annual report**

12. The corporation shall after the end of each fiscal year prepare and submit to the Executive Council Member an annual report for the 12 months ending on March 31.

**Content of annual report**

13. The annual report shall contain

- (a) a statement of the nature and amount of the business transacted by the corporation during the year,
- (b) a statement of assets and liabilities of the corporation, including a profit and loss account and such other accounts and matters as may be necessary to show the result of the operations of the corporation for the year, and
- (c) general information and remarks with regard to the working of the laws relating to liquor within the Yukon,

and the annual report shall be signed by the chairperson of the corporation.

**Tabling of annual report**

14. The Executive Council Member shall table a copy of the annual report at the next ensuing session of the Legislative Assembly.

**LICENSING**

**Suspension of licence**

15.(1) The general manager may by order for cause that he deems sufficient suspend any licence issued under this Act.

(2) A suspension of a licence ordered pursuant to subsection (1) shall be for a period of time not exceeding 12 months.

(3) Where a suspension is ordered pursuant to subsection (1), the suspension may be terminated before the expiration of the 12 month period by a further order of the general manager.

**Suspension procedure**

**16.(1)** Where a licence is suspended pursuant to section 15, the general manager shall forthwith notify the licensee.

(2) Notice of suspension of a licence shall be given in writing and served personally or sent by registered mail to the holder of the licence at the address stated therein, and the suspension takes effect on the day and hour specified by the general manager in the notice.

(3) A licensee may appeal against the suspension of his licence by serving a notice of appeal on the general manager within 30 days of the date of the notice of suspension.

(4) On receipt of the notice of appeal, the general manager shall refer the matter to the board for a decision and be bound by their decision.

(5) On receipt of a request by the board from the general manager for a decision in accordance with this section, the board shall forthwith enquire into the matter and shall, after hearing the licensee and the general manager and any evidence which may be adduced before them, make a decision.

(6) The board may decide that the suspension be continued, that the licence be reinstated either immediately or at a future date, that the licence be reinstated or re-issued subject to conditions, or that the licence be cancelled.

(7) The board shall give written reasons for its decision to the general manager and the licensee.

(8) The general manager and the licensee may be represented by agent or counsel.

**Oaths and affidavits**

**17.** Every member of the board and every official authorized to issue licences under this Act may administer any oath and take and receive any affidavit or declaration required under this Act or the regulations.

**Signature on board documents**

**18.** Written notices, orders, directions and recommendations of the board may be signed by the chairperson or other member of the board or any person authorized to do so by the chairperson.

**Expiration of licence**

**19.** Every licence becomes effective and expires on the respective dates stated therein.

**Forfeiture of liquor**

**20.(1)** Where a person receives notice of the suspension or cancellation of his licence he shall, if so ordered in the notice, forthwith deliver to the general manager all liquor then in his possession or under his control.

(2) Where the liquor delivered to the general manager pursuant to subsection (1) is suitable for resale by the general manager and has been lawfully acquired by the holder of the licence, the general manager shall refund the cost of that liquor to the holder.

(3) Any liquor delivered to the general manager pursuant to subsection (1) that is not purchased by the general manager shall be forfeited to the corporation to be destroyed or otherwise disposed of by the general manager.

(4) Notwithstanding subsections (2) and (3), the cost of liquor shall not be refunded, nor shall any liquor delivered to the general manager be destroyed or disposed of, until after any appeal made against the order of the general manager or the board has been decided or the appeal period has expired, and if the decision of the general manager in respect of the suspension or cancellation is reversed by the board or the Supreme Court the liquor shall be dealt with in accordance with any order of the board or the Supreme Court in respect of the appeal.

### **Classes of licences**

**21.** Subject to this Act and the regulations, the corporation has the jurisdiction to grant

- (a) tavern licences,
- (b) cocktail lounge licences,
- (c) dining room licences,
- (d) restaurant licences,
- (e) beer canteen licences,
- (f) liquor mess licences,
- (g) train, ship or aircraft licences,
- (h) recreation facility licences,
- (i) sports stadium licences,
- (j) off premises liquor licences,
- (k) off premises beer licences,
- (l) special licences,
- (m) club beer licences,
- (n) club liquor licences,
- (o) brewer's licences, and
- (p) brewer's retail licences.

### **Authority of licence**

**22.(1)** A licence issued pursuant to paragraphs 21(a) to (n) authorizes the licensee to purchase from the general manager and to sell liquor subject to the terms and conditions set out in the licence.

(2) A licence issued pursuant to paragraph 21(o) authorizes the licensee to manufacture the liquor mentioned in his licence and to sell liquor subject to the terms and conditions set out in the licence.

(3) A licence issued pursuant to paragraph 21(p) authorizes the licensee to sell liquor subject to the terms and conditions set out in the licence.

(4) Except as provided in this Act, no person may sell or keep for sale liquor without a licence.



**Application for new licence**

23.(1) Every applicant for a new licence shall make his application to the board in the prescribed form and shall provide

- (a) an affidavit in the prescribed form,
- (b) a detailed sketch of the premises showing the rooms, services, buildings, construction material and other pertinent information,
- (c) a statement setting out the hours that he will keep his premises open during the licence year or any part or parts thereof,
- (d) the report of an inspector and the reports of any inspection required pursuant to any Act or bylaw,
- (e) such other requirements as the board may require, and
- (f) the prescribed fee.

(2) For the purpose of considering an application for a licence under subsection (1), the general manager or the board may cause to be made an inspection of the premises and any other investigation the general manager or the board thinks necessary.

(3) Where an application for a licence has been refused by the board, no fresh application may be made within a period of one year from the date of the refusal except by special leave granted at the discretion of the board.

**Public notice of application**

24.(1) Every applicant shall give public notice of the making of an application by publication for three successive weeks in a newspaper circulating in the area in which the premises are situated in the prescribed form at or about the time of the making of the application but prior to the hearing of the application.

(2) Proof of publication of the advertisement shall be filed by the applicant with the general manager prior to the hearing of the application.

**Reference of application to the board**

25. Upon receipt of an application for a new licence, the general manager shall refer the application to the board for a decision and shall forward to the board any relevant material or objections which may be received.

**Consideration of application by the board**

26. Upon receipt of the application for a new licence, the chairperson shall call a meeting of the board, which shall forthwith proceed to consider the matter.

**Objections**

27. Any person may object to the granting of a licence by filing his objection together with the reasons therefor in writing with the general manager not later than the fifth day after the latest publication of the advertisement referred to in section 24 and serving a copy thereof by registered mail upon the applicant.

**Recommendation for the granting of a licence**

28.(1) If no objection to the granting of the licence has been received in accordance with section 27 and the board is satisfied that the requirements of the Act and the regulations have been complied with and that a licence should be issued with or without conditions attached, the board shall so decide.

(2) Where the board decides that the application for a licence should be granted with conditions it shall give the applicant an opportunity to make representations concerning the conditions.

**Hearing**

29. Where any objection to the application has been made pursuant to section 27, the board shall fix a day at least ten days after the last day of publication referred to in section 24 for hearing representations on behalf of the applicant and the general manager and on behalf of the person or persons who have filed an objection pursuant to section 27.

**Decision of the board**

30. The board shall meet on the day fixed for the hearing to consider the application and the objections, and shall decide whether the licence be granted or not and if granted the terms and conditions of the grant.

**Place of hearing and notice of decision**

31.(1) The board shall meet to consider the application at the place in respect of which the application is made or as near thereto as is reasonably practical having regards to all the circumstances.

(2) Upon reaching a decision, the chairperson of the board shall communicate the decision together with written reasons therefor to the applicant, the general manager and any persons who may have made objection to the issue of the licence.

**Application respecting premises under construction**

32.(1) Where an applicant for a new licence has not constructed or completed the premises in respect of which the application is made he may nevertheless apply for a new licence.

(2) Where an application is made under this section, the general manager shall refer the matter to the board and the board shall proceed to consider the application, and the provisions of sections 25 to 31 shall apply mutatis mutandis, but the board shall make a provisional decision only.

(3) Where the provisional decision of the board is that the application should be granted, the applicant may be granted a licence if within two years of the making of the provisional recommendation he completes a premises in accordance with the plans and specifications submitted to the board with his application and forwards to the general manager the report of an inspector and any inspection required pursuant to any Act or bylaw that the premises have been so constructed and that all requirements and conditions for the granting of the licence have been met and complied with.

(4) Where the applicant does not comply with subsection (3), he may make a fresh application.

### **Renewal of licences**

**33.**(1) An application for a renewal of an existing licence may be granted by the general manager without reference to the board.

(2) The general manager may refer an application pursuant to subsection (1) to the board.

(3) Notwithstanding subsection (1), any person may object to the renewal of a licence by filing his objection in the prescribed form with written reasons therefor with the general manager, not later than January 1 prior to the renewal date of the licence.

(4) Where any objection is received to the renewal of a licence, the matter shall be referred by the general manager to the board for a decision.

(5) Where the application for a renewal is referred to the board, the provisions of sections 26, 30 and 31 and subsections 23(2) and 28(2) shall apply mutatis mutandis.

(6) Notice of the objection pursuant to subsection (3) shall be served by the objector on the licensee either in person or by registered mail at the same time as the objection is filed with the general manager.

(7) Any objector who has complied with this section may appear at the hearing and may be represented by agent or counsel.

(8) The licensee and the general manager may be represented at the hearing by agent or counsel.

(9) Every licence for the sale of liquor shall be held to be a licence and valid only so long as the premises named therein is operational for at least three months of the licence year.

(10) When a licence has not been renewed for a period of one year, it shall be deemed a new application.

### **Advertisement exemptions on renewal**

**34.** The provisions of section 24 shall not apply to applications for renewal of a licence unless so ordered by the board or the general manager.

### **Considerations in granting a new licence**

**35.** The board in considering whether or not to grant a new licence shall, in addition to any matters brought to its attention by the applicant or the general manager, consider

- (a) the number of licences in the area in respect of which the application relates,
- (b) the number of different types of licences in the area,
- (c) the population of the area including seasonal variations and also including variations in the immediate area to be served by the licence and more distant areas capable of being served by the licence,

- (d) the economic activity carried on in the area or projected to be carried on, including seasonal variances,
- (e) in the case of an application under section 32, the projected capital expenditure to be made in respect of the application,
- (f) in the case of an application under section 23, the amount of capital expenditure already made by the applicant,
- (g) in the case of an application for a cocktail lounge licence, whether the hotel or motel to be licensed contains the qualifying number of rooms on the same lot as the cocktail lounge premises to be licenced, or on a lot or lots immediately contiguous thereto,
- (h) the need for a new licence in the area either because of the requirements of the stable population of the area or the travelling public, actual or projected,
- (i) the manner in which the applicant or his associates have operated any previous licence held by him or them,
- (j) the arrangements to be made by the applicant for operating and controlling the premises, and
- (k) the type of structure to be built, or added to present structures, permanent structures having preference.

### **Taverns**

**36.(1)** The holder of a tavern licence may sell beer, ale and cider in the licensed premises but may not sell wine or spirits.

(2) A tavern licence shall not be issued unless the licensed premises contain a room set aside and equipped with facilities approved by the general manager for the sale of beer, ale, cider, fruit juices and soft drinks separately or in combination.

(3) A tavern may be open for the sale of beer, ale and cider during any continuous period not exceeding 14 hours commencing on any day not earlier than nine o'clock in the forenoon and ending not later than two o'clock in the forenoon of the following day.

(4) No tavern licences shall be issued except in respect of an application made before April 30, 1984.

### **Cocktail lounges**

**37.(1)** A cocktail lounge licence entitles the licensee to sell all types of liquor on the licensed premises.

(2) A cocktail lounge licence shall not be issued unless the licensed premises contain a room set aside and equipped with facilities approved by the general manager for the sale of liquor, fruit juices and soft drinks, separately or in combination.

(3) A cocktail lounge may be open for the sale of liquor during any continuous period not exceeding 14 hours commencing on any day not earlier than nine o'clock in the forenoon and ending not later than two o'clock in the forenoon of the following day.

(4) Notwithstanding subsections 62(1) and (2), the board may issue a cocktail lounge licence to any person holding a tavern licence issued under this Act, subject to such conditions as the board may impose.

### **Conditions respecting taverns and cocktail lounges**

**38.**(1) The holder of every tavern licence and cocktail lounge licence shall notify the general manager at the commencement of the licence of his intended hours of operation, which hours shall be endorsed upon his licence and shall be the permitted hours during which the premises may remain open during the currency of his licence, but the hours may be changed with the written approval of the general manager.

(2) It shall be a condition of every tavern and cocktail lounge licence that adequate facilities be provided for providing food to customers of the licensed premises when the premises are open for the sale of liquor.

### **Dining rooms**

**39.**(1) A dining room licence entitles the licensee to sell liquor on the licensed premises.

(2) A dining room licence shall not be issued or held unless food is prepared and served on the premises.

(3) In every dining room,

- (a) the tables shall be covered with tablecloths or other equivalent suitable covering or surfacing,
- (b) an adequate supply of flatware, china and other table service shall be available and used, and
- (c) meals, for which adequate menus shall be provided, shall be served at regular breakfast, luncheon, dinner or supper hours to patrons of such dining room.

(4) In a dining room, wine may be sold by the bottle, half-bottle, or carafe.

(5) A dining room may be open for the sale of liquor between the hours of ten o'clock in the forenoon of any day until two o'clock in the forenoon of the following day.

### **Restaurants**

**40.**(1) A restaurant licence entitles the licensee to sell beer and table wine on the licensed premises.

(2) Wine may be sold by the bottle, half-bottle or carafe.

(3) In a licensed restaurant, beer and wine may be served only to a person having a meal therein while seated at a table or food counter.

(4) A restaurant may be open for the sale of beer and wine between the hours of ten o'clock in the forenoon of any day until two o'clock in the forenoon of the following day.

**Canteens and messes**

41.(1) The board may, subject to this Act, grant to officers commanding units of the Canadian Armed Forces (active or reserve) in the Yukon a beer licence in respect of a canteen or a liquor licence in respect of a mess.

(2) A beer licence in respect of a canteen may, subject to this Act, be granted to

- (a) a mining, construction or other corporation, or
- (b) a department of the Government of Canada or the Government of the Yukon.

(3) A licence issued under subsection (1) or (2) shall designate the premises in respect of which the licence is granted, and no liquor may be sold or consumed under the authority of the licence at a place other than such premises and no liquor may be sold or consumed in such premises except on the days and within the hours endorsed on the licence.

**Trains, ships and aircraft**

42. The holder of a train, ship or aircraft licence may sell liquor on a train, ship or aircraft while the train, ship or aircraft is in transit on a trip, the main purpose of which is the transporting of passengers from one point to another point.

**Recreation facilities**

43.(1) A recreation facility licence entitles the licensee to sell liquor on the licensed premises on such days and during such hours as may be determined by the board and endorsed on the licence.

(2) A recreation facility licence shall not be issued unless, subject to the approval of the board,

- (a) the licensed premises contain a room set aside and equipped with facilities for the sale of liquor,
- (b) the licensed premises contain recreation facilities in accordance with the regulations,
- (c) the licensee establishes a system of memberships in accordance with the regulations for use in controlling access to the area of his premises where liquor is served or consumed,
- (d) the recreation facility has been operated as such throughout the period of two years immediately preceding the date on which application is made for a recreation facility licence, and
- (e) the licensed premises are constructed, equipped and operated in accordance with this Act and the regulations.

(3) The holder of a recreation facility licence shall not permit more than two guests of any one member to be present at once in the area of his premises where liquor is served or consumed, and he shall not permit any guests to be present in that area in the absence of the member who introduced them under subsection 48(6).

(4) Subsections 48(2) to (6) and 49(1) to (3) apply with the necessary changes in respect of recreation facility licences.

**Sports stadiums**

44.(1) A sports stadium licence entitles the licensee to sell beer and cider on the licensed premises on such days and during such hours as may be determined by the board and endorsed on the licence.

(2) A sports stadium licence may be issued to a society under the Societies Act in respect of the presentation, in a sports stadium, of sporting or athletic events or spectacles approved by the board and endorsed on the licence.

(3) A sports stadium licence shall not be issued unless, subject to the approval of the board,

- (a) the licensed premises contain an area set aside and equipped with facilities for the sale of beer and cider, and
- (b) the licensed premises are constructed, equipped and operated in accordance with this Act and the regulations.

**Off-premises sales of liquor or beer**

45. The board may, in its discretion, issue in accordance with regulations establishing hours, prices, serving facilities and conditions of sale,

- (a) a licence allowing the retail sale of liquor in any licensed premises for off-premises consumption, or
- (b) a licence allowing the retail sale of beer in any licensed premises for off-premises consumption during the periods when the licensee of the premises is not permitted to sell beer for consumption on the premises.

**Special licences**

46. Notwithstanding any other provision of this Act the board may, subject to the regulations, in its discretion grant a licence for the sale of liquor under circumstances not otherwise provided for in this Act.

**Clubs**

47.(1) A club beer licence entitles the licensee to sell beer, ale and cider on the licensed premises.

(2) A club general licence entitles the licensee to sell all liquor on the licensed premises.

(3) A club may sell liquor during a continuous period of 14 hours ending not later than two o'clock in the forenoon of any day.

**Conditions respecting club licences**

48.(1) No club licence shall be granted under this Act to a club which is a proprietary club or which is operated for pecuniary gain.

(2) No club licence shall be granted under this Act unless

- (a) the club premises are constructed, equipped and operated to the satisfaction of the board and in accordance with this Act and the regulations,
- (b) the club has a permanent local membership of a number which, having regard to the size of the community, is satisfactory to the board, and

- (c) the application for the club licence is approved by two-thirds of the club members who are present at a general or special meeting which is called to consider the application and is attended by not less than 50 percent of the club members.

(3) A member of a club may purchase liquor for consumption on the club premises for guests of the member who are of the full age of 19 years and not otherwise disqualified under this Act from purchasing and consuming liquor.

(4) Every club licensee shall keep a register of the members of the club and the register shall be open to inspection by an inspector at all times.

(5) Every club licensee shall post its licence and keep it posted in a prominent position on the club premises.

(6) Every club licensee shall keep a visitor's register in which shall be entered the name and address of each guest on the club premises, the name of the member by whom the guest was introduced and the time and date of admission.

**Unauthorized persons in clubs**

49.(1) No person not a member or employee of the club or a guest of a member whose name as a guest is registered in the visitor's register of the club shall be permitted to be or remain in any part of the club in which liquor is being sold, served or consumed.

(2) The failure of any person, being in any room in which liquor is had, kept or consumed in licensed club premises, to produce to an inspector or peace officer in the premises evidence that he is a member of the club, or that he is otherwise lawfully present, shall be admissible in any prosecution or proceedings under this Act against the club or person as evidence that the person was not then a member of such club.

(3) No liquor shall be sold, served or consumed on the premises of any club or other organization, whether incorporated or not, unless such club or organization is the holder of a club licence or a permit under this Act.

**New Year's Eve**

50. Notwithstanding any other section, a licensed premises may remain open for the purposes stated on the licence from nine o'clock of the afternoon of December 31 until three o'clock in the forenoon of January 1.

**Reception and special occasion permits**

51.(1) The general manager may, subject to the regulations, upon the receipt of an application in the prescribed form,

- (a) issue a reception permit to any person in charge of a reception, or
- (b) issue a special occasion permit to any person acting on behalf of, and authorized in writing to act on behalf of, a non-profit organization, whether or not it is incorporated.



(2) The holder of a reception permit may serve liquor in the room or at the place mentioned in the permit.

(3) No person may sell liquor at a reception nor make any charge for admission to the reception.

(4) The holder of a special occasion permit may purchase liquor at a liquor store and serve and sell liquor in the room or at the place mentioned in the permit.

(5) Any application made under subsection (1) shall be signed by the applicant.

(6) A permit may be refused but the circumstances of the refusal shall be reported forthwith to the general manager.

(7) Any person aggrieved by the refusal of a permit may, through the general manager, appeal to the board and the board shall deal with the matter forthwith and informally.

(8) The place where the reception or special occasion is to be held shall be sufficient to accommodate the number of people mentioned in the application for a permit.

(9) No permit shall be issued for the holding of a reception or special occasion in that part of a premises licensed as a cocktail lounge or a tavern set aside for the sale of liquor to the public.

(10) The holder of a permit shall be responsible for the lawful use of the permit.

(11) The holder of a permit shall, upon the request of any peace officer or inspector, admit the peace officer or inspector to the hall, room or place where the reception or special occasion is being held for the purpose of inspecting it and otherwise carrying out his duties.

(12) A permit issued under this section shall be retained in the hall, room or place where the reception or special occasion is held and shall be available to any peace officer or inspector wishing to examine it.

(13) No reception or special occasion at which liquor is served shall be held in any room in which meals are being served to the public at the same time that the reception or special occasion is being held.

(14) Every person who makes an application for a permit under this section on behalf of any fictitious organization, who makes application for any purpose contrary to this section or who uses any fictitious name in making application, is guilty of an offence.

(15) Every holder of a permit granted under this section who uses it or permits it to be used in any manner contrary to this section is guilty of an offence.

(16) Every permit shall be for a period and subject to such conditions as may be imposed by the board.

(17) A special occasion permit may not be issued

- (a) in respect of more than five days in succession,
- (b) to any organization for more than 26 days in any one calendar year, or
- (c) for use during polling hours on any day on which polling is taking place in the area where the premises are located.

(18) No person shall be violent, quarrelsome, riotous or disorderly at a reception or special occasion.

(19) An inspector may suspend a permit issued pursuant to this section for disorderly conduct on the premises in respect of which the permit is issued.

**Home-made wine permits**

52.(1) The general manager may issue to any person a permit to make, transport or possess home-made wine.

(2) A person to whom a home-made wine permit is issued may make and have in his own residence home-made wine if the total amount of home-made wine in that residence does not at any time exceed 25 gallons for that person and 25 gallons for each member of his family.

(3) The general manager may issue a permit respecting the possession or transportation of wine for a wine competition or wine making course.

(4) The general manager may issue to any person an import permit allowing such person to import liquor into the Yukon.

(5) The general manager may issue a liquor permit for scientific, industrial or medicinal purposes.

(6) A permit pursuant to subsections (4) and (5) may be granted by the general manager subject to such terms and conditions as may be fixed by the board.

(7) No permit may be issued to a person who is under the age of 19 years.

**Validity of licence**

53.(1) Every licence for the sale of liquor shall be held to be a licence only to the person therein named and for the premises therein mentioned, and is valid only as long as the person continues to be the true owner or lessee of the business there carried on.

(2) Where a licensee dies or sells or otherwise assigns his business or becomes dispossessed of it by bankruptcy or by operation of law, then, subject to sections 54 and 57, the licence ipso facto becomes void and shall be forfeited.

**Interim licences**

54.(1) The board may, in a case to which section 53 applies and if it seems to it proper, grant an interim licence in respect of such premises to any person who appears to be entitled to the benefit thereof, as personal representative of a deceased licensee or as an assignee, receiver, mortgagee in possession, trustee in bankruptcy or otherwise by operation of law, but no interim

licence shall be for a period of more than six months and the person to whom it is granted has all the privileges and is subject to all the liabilities of a licensee under the Act.

(2) Notwithstanding anything herein, the board may grant an interim licence pending the completion of any requirement respecting alterations to a premises or compliance with any condition.

(3) Where a licence becomes void through the death of the licensee, the board, pending the consideration of the application for the new licence, may issue to the personal representative of the deceased licensee an interim licence for such period additional to the six months provided in subsection (1) as the board may permit.

### **Minors**

**55.** No licence authorizing the sale of liquor may be issued to a minor.

### **Person responsible under corporation or club licence**

**56.(1)** No licence authorizing the sale of liquor may be issued to a corporation or club unless the general manager has been supplied with the name of the officer or agent who is to be in charge of the premises and responsible for the custody and control of the liquor sold therein.

(2) Where a corporation or club has more than one place of operation, a separate licence is required for each place of operation.

### **Transfer of licences**

**57.(1)** Every licence shall bear the name of the licensee and also in the case of a corporation or club the name of the officer or agent in charge of the premises.

(2) No licence shall be transferred except on the written authorization of the general manager and subject to such conditions as the general manager may impose.

(3) Any corporation or partnership that is a licensee shall notify the general manager of any sale, assignment or transfer of shares in the corporation or partnership, and if the purchaser, transferee or assignee is another corporation or partnership, shall provide particulars of the names and share-holdings of the directors and members of that other corporation or partnership.

(4) Where a licensee is a corporation or partnership, any transfer, sale or assignment of shares in the corporation or partnership which substantially changes the beneficial ownership or control of the corporation or partnership shall invalidate the licence unless the prior approval of the board to the change has been obtained.

### **Conditions respecting the granting of licences**

**58.** No licence in respect of a tavern, cocktail lounge, dining room, restaurant or club shall be granted to or held by any person unless,

- (a) he is a fit person to keep and operate the kind of premises in respect of which a licence is sought,
- (b) he is the true owner or the lessee having a written lease for not less than one year of the premises, and

- (c) the premises in respect of which he applies for a licence conform to the requirements of all laws relating thereto, are constructed so as to be sanitary and in general suitable for the carrying on of the business in a reputable way, and have been inspected and approved as such by an inspector.

**Notice as to management of licensed premises**

59.(1) Where any licensee is not in personal day to day control of the licensed premises, he shall notify the general manager of the name of the person who is in day to day control and managing the licensed premises together with the terms of any contract arrangement between the parties, and such person's name shall be endorsed on the licence as manager.

(2) No person named shall be endorsed on or continued on the licence unless he is a fit person in the opinion of the general manager to manage and operate the premises in respect of which the licence is issued.

(3) The general manager may refer the decision for endorsement of a manager on a liquor licence to the board.

**Exercise of rights by corporate licensees**

60. Where any licence under this Act is issued to a corporation, anything required by this Act to be done by any person as licensee, whether before or after the granting of a licence, may be done in name of the corporation by the officer or agent of the corporation in charge of the particular premises for which the licence is to be or has been granted.

**Public servants**

61. No licence shall be granted to or for the benefit of a person who is appointed under section 8 and no licence shall be granted in respect of any premises the owner or part owner of which, or of any interest therein, is such an appointee; and every person who knowingly recommends the issue, or is a party to the issue, of a licence in any such case commits an offence.

**Bedroom requirements for licences**

62.(1) In the City of Whitehorse no cocktail lounge licence shall be granted except in respect of a hotel that has at least 30 bedrooms.

(2) In any other place no cocktail lounge licence shall be granted except in respect of a hotel that has at least 20 bedrooms.

(3) In any place a cocktail lounge licence may be renewed where a hotel contains at least 15 bedrooms if it was licensed prior to March 31, 1965, or it contains 20 bedrooms if it was licensed prior to December 31, 1969.

(4) Where a hotel was licensed prior to March 31, 1965, a tavern licence may be renewed if the hotel contains in the case of a hotel in the City of Whitehorse not less than ten bedrooms and in any other place not less than five bedrooms.

(5) Notwithstanding subsection (2), in any place other than the City of Whitehorse, the board may grant a cocktail lounge licence in respect of a hotel that has at least ten bedrooms.

#### **Bi-annual review**

**63.(1)** The board shall review once every two years the provisions of subsections 62(3) and 62(4) and may require as a condition of the renewal of the licence in respect of any premises that the number of bedrooms be increased.

(2) Where the board imposes a condition pursuant to subsection (1), it shall be a condition of any licence renewed thereafter in respect of such premises that the required number of bedrooms be constructed to a standard acceptable to the board within a period of not less than two years from the next renewal of the licence.

#### **Use of premises after closing time**

**64.(1)** Except during the periods endorsed on the licence therefor and for a period of 30 minutes thereafter, the licensee and any employee of the licensee of a cocktail lounge or tavern shall ensure that such cocktail lounge or tavern is closed to and cleared of all persons, except the licensee, his spouse or any employee of the licensee, but nothing herein prevents a peace officer or any inspector from entering any cocktail lounge or tavern in the performance of his duties.

(2) A cocktail lounge or tavern shall remain lighted until all persons other than those authorized by subsection (1) to remain have left the premises.

(3) Notwithstanding anything else in this section, the board may authorize the licensee to use his cocktail lounge or tavern for purposes other than the sale of liquor during times when his premises are closed to the sale of liquor.

(4) The licensee shall not sell liquor in or for consumption outside the licensed premises during the time he uses the premises for a purpose authorized pursuant to subsection (3).

#### **Room service**

**65.(1)** A licensee of a cocktail lounge or dining-room may sell liquor and a licensee of a tavern may sell beer to a bona fide guest in his room in accordance with the regulations.

(2) Regulations made under this Act may define "guest" and regulate the conditions of room service.

#### **Prohibitions respecting licensed premises**

**66.(1)** No liquor may be kept for sale, sold or served in any licensed premises, except such liquor as may be endorsed on the licence.

(2) The board shall in every licence granted specify the part of the premises to which the sale, serving and consumption of liquor is restricted.

**Conduct on licensed premises**

**67.**(1) No licensee, and no person employed in any premises in respect of which a licence has been issued, shall

- (a) permit any person in a drunken or intoxicated condition to enter, be or remain in the premises,
- (b) permit any riotous, quarrelsome, violent or disorderly conduct to take place in the premises,
- (c) permit any gambling to take place in the premises, or
- (d) permit any slot machine or any device used for gambling to be placed, kept or maintained in the premises.

(2) Paragraphs (1)(c) and (d) do not apply in respect of premises in respect of which a licence or permit has been issued to a person on behalf of a non-profit organization under section 46 or 51 where the gambling is authorized to be carried on under a licence issued under the Criminal Code (Canada).

**Posting of licences, signs and public notices**

**68.** Every licensee shall post his licence and keep it posted in a prominent position in a part of his licensed premises where liquor is permitted to be sold and shall post, in the licensed premises or at the entrance thereto, any extracts from this Act, signs and notices as the board may require or permit, but shall not post any other signs or notices.

**Sale of beer for consumption off premises**

**69.** A licensee of a tavern or a cocktail lounge may sell, during the periods when liquor is permitted to be sold, beer for consumption off the premises to any person entitled to purchase liquor at a liquor store.

**Consumption of liquor off premises**

**70.** Except as permitted pursuant to sections 65 and 69 or a licence issued under section 45, a licensee shall not allow liquor which is purchased from him to be consumed outside that part of the licensed premises in which he is permitted to sell liquor.

**LIQUOR CONTROL****Importation of liquor into the Yukon**

**71.** A person entitled to possess or consume liquor may lawfully have or keep

- (a) liquor that is of a kind and up to a quantity that he is permitted under any Act of the Parliament of Canada to import into Canada without any payment of tax or duty thereon, or
- (b) not more than a quart of spirits or wine or two gallons of beer if the liquor was purchased from a liquor board, commission or similar body in another part of Canada.

**Sale by authorized persons**

**72.** No person authorized by this Act to sell liquor shall sell liquor in any other place, at any other time, in any other quantities or otherwise than as authorized by this Act.

**Sale or delivery of liquor**

73.(1) Except as authorized by this Act, no person shall by himself or his partner, servant, clerk, agent or otherwise, sell or deliver any liquor to any person who buys liquor for the purpose of reselling it.

(2) No person shall take or carry, or employ or suffer any other person to take or carry, any liquor out of any premises where the liquor is lawfully kept for sale for the purposes of being sold in the Yukon by any person not authorized by this Act to sell liquor.

(3) Except as authorized by this Act, no person shall by himself, his clerk, employee, servant or agent, send or cause to be sent, bring or carry, or cause to be brought or carried any package containing liquor from any person or place in the Yukon to

- (a) any person who may not lawfully purchase and consume liquor, or
- (b) any place where liquor may not be lawfully kept.

**Unlawful purchase of liquor**

74.(1) No person shall purchase liquor from a person who is not authorized under this Act to sell such liquor.

(2) No person who purchases liquor shall drink liquor or cause anyone to drink or allow liquor to be drunk upon the premises where it is purchased except in the case of liquor lawfully purchased for consumption in premises wherein the consumption of liquor is permitted.

**Unlawful use or consumption**

75.(1) No person shall use or consume liquor purchased from any person within the Yukon unless it is lawfully purchased and lawfully received from some person authorized under this Act to sell such liquor.

(2) Subsection (1) does not apply to a person who innocently uses or consumes liquor not so purchased.

**Powers of inspectors**

76.(1) An inspector may enter and inspect any premises licensed under the provisions of this Act.

(2) An inspector may issue an order to suspend a licence issued pursuant to this Act if, in his opinion,

- (a) a violation of this Act or the regulations has been committed on the licensed premises,
- (b) unsanitary conditions exist in the licensed premises, or
- (c) the owner or operator of the licensed premises permits or encourages excessive drinking on the premises.

(3) Suspension of a licence pursuant to this section shall not be effective until a copy of the order of suspension signed by the inspector is either personally served on the licensee or posted in some prominent place on the licensed premises.

(4) Where an order of suspension is posted in the licensed premises pursuant to subsection (3), a copy thereof shall be sent by registered mail to the licensee at his latest known address.

(5) Except as provided by this section, where a licence is suspended pursuant to this section, all rights and privileges conferred under this Act on the holder thereof are forthwith suspended.

(6) An order of suspension made by an inspector shall be for a period not exceeding 14 days, but this period may be extended by order of the board for such period as it sees fit.

(7) Notwithstanding subsection (5), where a licence is suspended pursuant to this section, the licensee may appeal to the general manager whereupon the provisions of subsections 16(3) to (8) shall apply *mutatis mutandis*.

(8) No person shall obstruct an inspector in the execution of his duties under this Act.

### **Unlawful soliciting and display**

77. Except as permitted by this Act or the regulations, no person within the Yukon shall

- (a) exhibit or display or permit to be exhibited or displayed without the approval of the general manager any sign or poster containing the words "bar", "barroom", "saloon", "tavern", "cocktail lounge", "beer", "spirits" or "liquors", or words of like import, or
- (b) exhibit or display or permit to be exhibited or displayed any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance or device, or on any hoarding, signboard, billboard or other place in public view or by any of the means aforesaid, advertise any liquor.

### **Saving provisions and exemptions**

78.(1) Notwithstanding anything in this Act, any person may, for medicinal or sacramental purposes, consume liquor or supply or administer it to any person.

(2) Where there is evidence capable of establishing that a person consumed, supplied or administered liquor, the burden of establishing that the consumption, supplying and administering of liquor was for medicinal purposes, is upon the person who consumes, supplies or administers it, and a justice who tries a case may draw inferences of fact from the frequency with which the liquor is consumed, supplied or administered, from the amount of liquor so used, and from the circumstances under which it is used.

### **Exemption for medicines**

79. Notwithstanding anything in this Act, any person may sell, purchase, have in his possession or consume

- (a) any pharmaceutical preparation containing liquor that is prepared by a druggist according to a formula of the British Pharmacopoeia, the Codex Medicamentarius of France, the Pharmacopoeia of the United States or the Canadian Formulary, or



- (b) any proprietary or patent medicine within the meaning of the Proprietary or Patent Medicine Act (Canada)

and may purchase, have in his possession or consume any alcohol for any bona fide industrial or scientific purpose.

#### **Exemption for other products**

**80.** Where a toilet or culinary product, perfume, lotion or flavouring extract or essence contains alcohol and also contains an ingredient or medication that makes it unsuitable as a beverage, a druggist or other person who manufactures or deals in the product may purchase or sell the product and any other person may purchase or use it for any purpose other than as a beverage, but where the justice hearing a complaint respecting selling, buying or consuming such product is of the opinion that an unreasonable quantity of any such product, having regard to the purposes for which the same was legitimately manufactured, was sold or otherwise disposed of to any person or persons either at one time or at intervals and proof is also given that the product so sold or disposed of was used for beverage purposes by any person, the person selling or otherwise disposing of the same may be convicted of selling liquor contrary to this Act and any person who obtains or consumes for beverage purposes any of the products mentioned in this section commits an offence.

#### **Coincidental powers of the board and justices**

**81.** Where by any provision of this Act power is given to a justice respecting any matter, thing or person and by the same or any other provision, further or other power is given to the board respecting the same matter, thing or person, the latter power shall be in addition to and not in substitution for the former.

#### **Recommendation by court for licence suspension**

**82.(1)** A judge of the Territorial Court or justice who convicts a licensee of an offence pursuant to this Act may, in addition to any other penalty, recommend to the board a suspension or cancellation of a licence held by the licensee.

(2) Where a recommendation is made by a judge or justice under this section, the general manager may cancel or suspend the licence.

#### **Unlawful possession of liquor**

**83.** No person shall have or keep in his possession any liquor unless purchased in accordance with this Act.

#### **Liquor in motor vehicles**

**84.(1)** No person shall consume liquor in a motor vehicle while that motor vehicle is being driven by himself or herself or any other person or is in the care and control of himself or herself or any other person for the purpose of setting the motor vehicle in motion.

(2) In any proceedings under this section,

- (a) where it is proved that a person occupied the seat ordinarily occupied by the driver of a motor vehicle, that person shall be deemed to have had the care or control of the vehicle unless the accused establishes that such person did not enter or mount the vehicle for the purpose of setting the motor vehicle in motion, and

- (b) evidence that an open package of liquor is so situated in the motor vehicle that the package could be reached by a person in the motor vehicle while the motor vehicle is in motion is prima facie evidence that each person in the motor vehicle consumed liquor in the motor vehicle while the motor vehicle was in motion.

(3) The presumption described in paragraph (2)(b) does not operate where the open package of liquor is itself within another package that is closed, but the judge may still draw from those facts such inference as is proper in the totality of the evidence.

(4) Subsection (1) does not apply to passengers in a chartered bus that is being operated pursuant to a certificate or permit issued under the Motor Transport Act.

(5) In this section,

“chartered bus” means a bus that is hired by or made available to a group of people for the purpose of conveying the group on a specified trip or for a specified time;

“motor vehicle” has the same meaning as in the Motor Vehicles Act.

**Persons under 19 years of age**

**85.(1)** Except as provided under this section, no person under the age of 19 years shall consume, purchase or attempt to purchase or otherwise obtain liquor.

(2) A person under the age of 19 years may in a private residence, club, licensed dining room or restaurant, or at a reception, consume liquor provided by or with the consent of a parent, grandparent or legal guardian while accompanied by such parent, grandparent or legal guardian.

(3) No person other than a parent, grandparent or legal guardian of a person under the age of 19 years shall give or otherwise supply to that person liquor except for medicinal or sacramental purposes.

(4) No person under the age of 19 years shall enter, be in or remain in any tavern or cocktail lounge.

(5) No liquor shall be sold or supplied to a person apparently under the age of 19 years unless that person furnishes proof on demand that he is 19 years of age or over.

(6) Where a person cannot or refuses to furnish proof as required by subsection (5), he shall immediately leave a liquor store or licensed premises upon being requested to do so.

(7) The corporation shall establish a system of identification cards to enable persons 19 years of age or over to prove their age for all purposes of this Act.

(8) Any licensee, his servant or agent, any liquor vendor or any inspector or peace officer may request a person who appears to be below the age of 19 years to produce a proof of age identification card.

(9) In any prosecution for the supply of liquor to a person under the age of 19 years, it shall be a defence for the supplier to prove that the person to whom the liquor was supplied produced an identification card bearing a photograph of the person issued pursuant to this Act, the Motor Vehicles Act or a similar Act of a province.

### **Intoxicated persons in public places**

**86.(1)** No person shall be in an intoxicated condition in a liquor store or licensed premises.

(2) No person shall be in an intoxicated condition in a public place.

(3) No prosecution shall be taken against any person pursuant to subsection (2) of this section except on the written consent of the Executive Council Member or an officer authorized by him in that behalf.

### **Taking intoxicated persons into custody**

**87.(1)** Where a peace officer has reasonable and probable grounds to believe and does believe that a person is in an intoxicated condition in a public place, the peace officer may, instead of charging the person under section 86, take the person into custody and deal with the person in accordance with this section.

(2) A person taken into custody under this section shall not be held in custody for more than 12 hours after being taken into custody and shall be released from custody at any time if there are reasonable and probable grounds for the person responsible for his custody to believe that

- (a) the person in custody has recovered sufficient capacity that, if released, he or she is unlikely to cause injury to himself or herself or be a danger, nuisance or disturbance to others, or
- (b) a person capable of doing so undertakes to take care of the person in custody upon his or her release.

(3) No action lies against a peace officer or other person for anything done in good faith and without negligence with respect to taking into custody, holding in custody or releasing a person under this section.

(4) Where a minor is taken into custody under this section, the peace officer who takes him or her into custody shall, as soon as practicable, make reasonable efforts to notify the minor's parent or an adult person who ordinarily has the care of the minor that the minor is in custody.

### **Sale to intoxicated persons**

**88.** No person shall sell or supply liquor to a person who is or appears to be intoxicated.

### **Offer of remuneration prohibited**

**89.** No person selling or offering for sale to or purchasing liquor from the general manager shall either directly or indirectly

- (a) offer to pay a commission, profit or remuneration, or

- (b) make any gift,

to a member of the board, to a person appointed pursuant to subsection 8(4) or to anyone on behalf of such person.

## ENFORCEMENT

### Offence

**90.** Every person who refuses or neglects to obey an order of the board or who contravenes any provision of this Act or the regulations commits an offence.

### General penalty

**91.(1)** Where a person commits an offence under this Act or the regulations for which no special penalty has been provided, he is liable on summary conviction

- (a) for a first offence to a fine of not more than \$1,000 or imprisonment for not more than six months, or to both fine and imprisonment, and
- (b) for each subsequent offence to a fine of not more than \$3,000 or imprisonment for not more than 12 months, or to both fine and imprisonment.

(2) Where the person convicted of an offence referred to in subsection (1) is a corporation, it is liable

- (a) for a first offence to a fine of not more than \$5,000, and
- (b) for each subsequent offence to a fine of not more than \$10,000.

### Liability of corporation officials

**92.(1)** Where an offence under this Act or the regulations is committed by a corporation, the officer or employee of the corporation in charge of the premises in which the offence is committed when the offence is committed shall

- (a) prima facie be deemed to be a party to the offence, and
- (b) be personally liable to the penalty prescribed for the offence as the principal offender.

(2) Nothing in this section relieves the corporation or the person who actually committed the offence from liability therefor.

### Description of offence

**93.** In a prosecution under this Act or the regulations it is sufficient to state the sale, keeping for sale, disposal, having, keeping, giving, purchasing or consuming of liquor without stating the name or kind of liquor, the price thereof or the consideration therefor.

### Certificate of analyst

**94.(1)** In any proceedings under this Act a certificate purporting to be signed by an analyst stating that he has performed a chemical analysis on any liquor, or other fluid preparation, compound or substance and the results thereof, when produced in any court or before any justice, is prima facie proof of the facts stated in the certificate without proof of the signature or the official character of the person by whom it purports to be signed.

(2) Subsection (1) does not apply in any proceedings unless,

- (a) at least seven days notice in writing is given to the accused that it is intended to tender the certificate of an analyst in evidence, or
- (b) the accused, his agent or counsel have consented to the production in evidence of the certificate of an analyst without such notice.

### **Inference respecting liquor**

95. The justice trying the case, in the absence of evidence to the contrary, is at liberty to infer that any substance in question is liquor within the meaning of this Act from the fact that a witness describes it as liquor or by a name that is commonly applied to liquor.

### **Deposition of witness**

96. In a prosecution under this Act or the regulations for the sale or keeping for sale or other disposal of liquor or the having, keeping, giving, purchasing or consuming of liquor, it is not necessary that a witness should depose to

- (a) the precise description or quantity of the liquor sold, kept for sale, disposed of, had, kept, given, purchased or consumed, or
- (b) the precise consideration, if any received therefor.

### **Circumstantial evidence**

97. Upon the hearing of a charge of selling or purchasing liquor or of the unlawful having or keeping of liquor contrary to any of the provisions of this Act or the regulations, the court may draw inferences of fact

- (a) from the kind or quantity of liquor found in the possession of the person accused or in any building, premises, vehicle or place occupied or controlled by that person,
- (b) from the frequency with which liquor is received by the person accused or is received at or in or removed from any building, premises, vehicle or place occupied or controlled by the person accused,
- (c) from the circumstances under which liquor was obtained or is kept or dealt with, and
- (d) in the case of a preparation or substance legitimately manufactured for other than beverage purposes, from the quantity of the preparation or substance sold or purchased by or in the possession of the person accused.

### **Proof of liquor transactions**

98.(1) In proving the sale, disposal, gift, purchase or consumption of liquor, it is not necessary to show in a prosecution that any money actually passed or any liquor was actually consumed if the judge of the Territorial Court is satisfied that a transaction in the nature of a sale, disposal, gift or purchase actually took place.

(2) Proof of consumption or intended consumption of liquor on premises on which such consumption is prohibited is evidence that the liquor was sold or given to or purchased by the person consuming or being about to consume or carry away the liquor.

(3) Proof of consumption or possession of liquor by a person under the age of 19 years is prima facie evidence that such liquor has been consumed or obtained contrary to the provisions of section 85.

**Certificate of board or general manager**

99. In a prosecution under this Act or the regulations, the production of a certificate or report signed and sworn or purporting to be signed and sworn by a member of the board or the general manager is evidence of the facts stated therein and of the authority of the person giving or making such certificate or report without proof of his appointment or signature.

**Arrest without warrant**

100. A peace officer may arrest without warrant a person whom he finds committing an offence against this Act or the regulations.

**Searches**

101.(1) A peace officer who has reasonable grounds for believing and does believe that any liquor is being unlawfully kept may search

- (a) a vehicle, boat or conveyance of any description,
- (b) any person found in a vehicle, boat or conveyance of any description, and
- (c) the land in the vicinity of the vehicle, boat or conveyance of any description that is being searched.

(2) Where a justice is satisfied by information upon oath that there are reasonable grounds for believing that liquor is being unlawfully kept or had or kept or had for unlawful purposes in any building or premises, he may by warrant under his hand authorize a peace officer or any person named in the warrant to enter and search the building or premises and each part thereof.

(3) A peace officer who has reasonable grounds for believing and does believe that a violation of this Act or the regulations has been committed or is about to be committed may at any time without warrant enter any building or premises other than a private dwelling without an order and make such search as he deems fit.

(4) Any person who refuses to admit or attempts to obstruct the entry of a peace officer for the purpose of this section commits an offence.

(5) Where a peace officer proposes to conduct a search in respect of an offence against this Act or the regulations and the peace officer is not of the same sex as the person to be searched, the peace officer shall engage to perform the search a person who is of the same sex as the person to be searched; the person so engaged may perform the search and for that purpose has all the powers and immunities of a peace officer.

**Seizure**

102. Where a peace officer finds liquor that is had or kept contrary to this Act or the regulations, he may forthwith seize the liquor.

**Report of seizure**

103. Where liquor is seized by a peace officer, he shall forthwith make an inventory thereof and a report in writing of the seizure to the general manager.

**Identification of persons found in searched premises**

104. Where a person is found in or around buildings or premises which are being searched pursuant to section 100, he shall on request of a peace officer report to him his correct name and address.

**Public drinking**

**105.(1)** Except in the case of liquor purchased and consumed in accordance with a licence or permit issued pursuant to this Act, no person shall consume liquor in any public place in a municipality or hamlet in respect of which the Commissioner in Executive Council has made an area enforcement order under of this section.

(2) For the purposes of this section, “public place” does not include

- (a) a residence,
- (b) a licensed premises,
- (c) a garden, terrace or poolside patio of a licensed premises, or
- (d) such other places as may be prescribed.

(3) Upon receiving a resolution which is duly passed by the council of a municipality and which requests that an area enforcement order be made or revoked in respect of the municipality, the Commissioner in Executive Council shall make or revoke the order in accordance with the request.

(4) The Commissioner in Executive Council may, upon receiving a request to do so from the advisory council of a hamlet, make or revoke an area enforcement order in respect of such public places in the hamlet as the Commissioner in Executive Council considers appropriate.

(5) An area enforcement order applies to public places in a municipality or hamlet according to the terms of the order, but every such order made after this subsection comes into force shall state whether the order

- (a) applies to all public places in the municipality or hamlet,
- (b) applies to all public places in the municipality or hamlet except such public places as are specified in the order, or
- (c) applies only to such public places in the municipality or hamlet as are specified in the order.

(6) An area enforcement order that applies to a municipality may, in accordance with the resolution referred to in subsection (3), specify conditions under which the consumption of liquor is permitted or prohibited, as the case may be, in public places to which the order applies.

(7) An area enforcement order that applies to a hamlet may, where it is considered appropriate by the Commissioner in Executive Council, specify conditions under which the consumption of liquor is permitted or prohibited, as the case may be, in public places to which the order applies.

(8) No area enforcement order shall be held to be ineffective in whole or in part by reason only of any difference between the resolution of the municipality and the terms or conditions of the order.

(9) In this section, “hamlet” and “municipality” each have the same meaning as in the Municipal Act.

(10) Notwithstanding any other provision of this section, an area enforcement order shall continue in force in respect of the place described in the order for a period of not less than two years from the making of the order and where, pursuant to this section, the Commissioner in Executive Council has revoked an area enforcement order no further area enforcement order shall be made in respect of that place for a period of two years from the date of the revocation of the original enforcement order.

(11) Proof of possession in a public place of a bottle or a can containing liquor which has been opened is prima facie evidence of consumption by the person found in possession of liquor in such public place.

(12) Where one of two or more persons with the knowledge and consent of the rest has liquor in his custody or possession, the liquor shall be deemed to be in possession of each and all of them.

### **Jurisdiction of the Supreme Court**

**106.(1)** The Supreme Court has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi-judicial basis, made by or in the course of proceedings before the board, upon the grounds that the board

- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction,
- (b) erred in law in making its decision or order, whether or not the error appears on the face of the record, or
- (c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

(2) Any such application may be made by any party directly affected by the decision or order by filing a notice of the application setting out the grounds within ten days of the time the decision or order was first communicated to that party by the board or within such further time as the Supreme Court or a judge thereof may allow either before or after the expiry of those ten days.

(3) The board may at any stage of the proceedings before it refer any question or issue of law, or jurisdiction to the Supreme Court for hearing and determination.

(4) An application or reference to the Supreme Court made under this section shall be heard and determined without delay and in a summary way.

(5) Where a re-hearing of any matter is ordered by the Supreme Court, the re-hearing may be held by the board composed of the same persons that held the original hearing.

(6) Except by special leave of the Supreme Court, no application pursuant to this section shall be made later than six months from the date of the decision of the board complained of.

(7) Except by special leave of the Supreme Court, no application pursuant to this section shall operate as a stay in respect of the decision of the board complained of.



**Regulations**

**107.(1)** The Commissioner in Executive Council may make such regulations or orders as he deems necessary for the purpose of carrying out the purposes and provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Commissioner in Executive Council may make regulations

- (a) fixing the policies to be carried out by the board in establishing the prices of liquor to be sold by the board;
  - (b) prescribing fees;
  - (c) respecting the operation of licensed premises;
  - (d) respecting the disposal of liquor and packages that have been seized or forfeited under this Act.
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# **CHAPTER 106**

## **LIQUOR TAX ACT**

### **Interpretation**

1. Any expression which is defined in the Liquor Act shall have the meaning given to it in the Liquor Act.

### **Tax**

2. There shall be levied on all liquor purchased from the Yukon Liquor Corporation a tax in an amount equal to 12 percent of the amount paid to the Yukon Liquor Corporation for its own use for the sale of the liquor.

### **Transfer of tax to Y.C.R.F.**

3.(1) The Yukon Liquor Corporation shall transfer the amount of liquor tax revenue monthly from the Liquor Corporation Fund of the Yukon Consolidated Revenue Fund to the Treasurer and adjust the amount to be transferred in the final month of each fiscal year so that the total amount to be transferred in each fiscal year shall equal the liquor tax revenue of that fiscal year as established by audit.

(2) The Yukon Liquor Corporation shall account in respect of the tax to the Treasurer as required.

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# CHAPTER 107

## LORD'S DAY ACT

### Interpretation

1. In this Act,

“council” means the council of a municipality;

“electors” means electors as defined in the Municipal Act;

“settlement” means any area of not more than 25 square miles in which is located a named postal office, which has a resident population in excess of 100 persons, and which does not form a part of a municipality.

### Sunday sports

2.(1) Where a bylaw passed under this section is in force and subject to its provisions, it is lawful in the municipality or in such part or parts thereof as are specified in the bylaw for any person, after 1:30 o'clock in the afternoon of the Lord's Day or during such period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day as are specified in the bylaw, to provide, engage in or be present at any public game or sport that is specified in the bylaw and which but for this Act would be unlawful under section 6 of the Lord's Day Act (Canada), or to do or engage any other person to do any work, business or labour in connection with any such public game or sport which but for this Act would be unlawful under section 4 of the Lord's Day Act (Canada).

(2) Subject to subsection (5), the council of any municipality may pass a bylaw,

- (a) providing that subsection (1) applies in the municipality or specifying a part or parts of the municipality in which subsection (1) applies,
- (b) providing that subsection (1) applies after 1:30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day during which subsection (1) applies, and
- (c) specifying the public games and sports to which subsection (1) applies.

(3) Any provision of a bylaw under this section may differ in different parts of the municipality and in respect to different public games and sports.

(4) A bylaw under this section shall not specify horseracing as a public game or sport.

(5) No bylaw under this section shall be passed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question: “Are you in favour of public games and sports for gain after 1:30 o'clock in the afternoon of the Lord's Day to be regulated by municipal bylaw under the authority of the Lord's Day Act?”

(6) No bylaw passed under this section shall be repealed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question: “Are you in favour of the repeal of the bylaw passed under the authority of the

Lord's Day Act that regulates public games and sports for gain after 1:30 o'clock in the afternoon of the Lord's Day?"

### **Sunday movies, concerts and performances**

3.(1) Where a bylaw passed under this section is in force and subject to its provisions, it is lawful in the municipality or in such parts or parts thereof as are specified in the bylaw for any person, after 1:30 o'clock in the afternoon of the Lord's Day or during such period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day as are specified in the bylaw, to provide, engage in or to be present at any exhibition of moving pictures or any theatrical performance, any concert or any lecture or such of them as are specified in the bylaw and which but for this Act would be unlawful under section 6 of the Lord's Day Act (Canada), or to do or engage any other person to do any work, business or labour in connection with any such exhibition of moving pictures, theatrical performance, concert or lecture, as the case may be, which but for this Act would be unlawful under section 4 of the Lord's Day Act (Canada).

(2) Subject to subsection (4), the council of any municipality may pass a bylaw,

- (a) providing that subsection (1) applies in the municipality or specifying a part or parts of the municipality in which subsection (1) applies,
- (b) providing that subsection (1) applies after 1:30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day during which subsection (1) applies, and
- (c) specifying that subsection (1) applies to the exhibition of moving pictures, theatrical performances, concerts and lectures or any one or more of them.

(3) Any provision of a bylaw under this section may differ in different parts of the municipality and in respect of the exhibition of moving pictures, theatrical performances, concerts or lectures.

(4) No bylaw under this section shall be passed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question: "Are you in favour of moving pictures, theatrical performances, concerts and lectures (or as the case may be) for gain after 1:30 o'clock in the afternoon of the Lord's Day to be regulated by municipal bylaw under the authority of the Lord's Day Act?"

(5) The question set out in subsection (4) may be varied by deleting therefrom any one or more of the expressions "moving pictures", "theatrical performances", "concerts" or "lectures" as the council by resolution determines.

(6) No bylaw under this section shall be repealed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question: "Are you in favour of the repeal of the municipal bylaw passed under the authority of the Lord's Day Act that regulates moving pictures, theatrical performances, concerts and lectures (or as the case may be) for gain after 1:30 o'clock in the afternoon of the Lord's day?"

(7) The expression "concert" in this section does not include a concert of an artistic and cultural nature that is governed by section 6.

**Submission of question to the electorate**

4.(1) The council may submit any question set out in this Act to the electors at any time.

(2) Upon the presentation of a petition requesting that a question under this Act be submitted to the electors, signed by at least ten percent of the electors in the municipality, the council shall before or at the next municipal election submit the question to the electors, but if a petition is presented in the month of November or December in any year it shall be deemed to be presented in the month of February next following.

(3) A petition mentioned in subsection (2) shall be deemed to be presented when it is lodged with the clerk of the municipality, the sufficiency of the petition shall be determined by him, and his certificate as to its sufficiency is conclusive for all purposes.

**Regulation and control**

5. Every bylaw under this Act shall provide for the regulation and control of the activities specified therein, and may provide for the regulation and control of any matter or thing in connection therewith.

**Non-profit concerts and performances**

6. It is lawful for any person after 1:30 o'clock in the afternoon of the Lord's Day to provide, engage in or be present at any concert, recital or other musical performance of an artistic and cultural nature produced by a non-profit organization at which an admission fee is charged and which but for this Act would be unlawful under section 6 of the Lord's Day Act (Canada), or to do or engage any other person to do any work, business or labour in connection with any such concert, recital or other musical performance which but for this Act would be unlawful under section 4 of the Lord's Day Act (Canada).

**Areas outside municipalities**

7.(1) Where a majority of persons over the age of 19 years, residing in a settlement, present to the Executive Council Member satisfactory evidence of their desire to permit in the settlement the same activities which in the case of a municipality may be made the subject of a bylaw under the provisions of this Act, the Commissioner in Executive Council may make regulations permitting such activities upon terms which conform as far as possible to the terms which would govern similar activities in a municipality.

(2) The Commissioner in Executive Council may, in his discretion, revoke or limit the permission given under subsection (1).

**Daylight saving time**

8. If and so long as the time commonly observed in a municipality in which a bylaw under this Act is in force or in which a concert, recital or other musical performance is produced under section 6 is in advance of standard time, the times mentioned in this Act or in a bylaw under this Act shall be reckoned in accordance with the time so commonly observed and not standard time.





# CHAPTER 108

## MAINTENANCE AND CUSTODY ORDERS ENFORCEMENT ACT

### Interpretation and application

1.(1) In this Act,

“claimant” means a person in whose favour a maintenance order has been made or who seeks enforcement of a custody order;

“respondent” means a person who has an obligation to pay a maintenance order or against whom enforcement of a custody order is sought;

“custody order” means a provision in an order of a court in or outside the Yukon enforceable in the Yukon for custody of a child, other than right of access, and includes such a provision in a marriage contract, cohabitation agreement or separation agreement that is enforceable under the law of the Yukon;

“director” means the director of maintenance and custody enforcement appointed under section 2;

“maintenance order” means a provision in an order of a court in or outside the Yukon enforceable in the Yukon for the payment of money as maintenance or support, and includes a provision

- (a) for the payment of an amount periodically, whether annually or otherwise and whether for an indefinite or limited period or until the happening of a specified event,
- (b) for a lump sum to be paid or held in trust,
- (c) for any specified property to be transferred to or in trust for or vested in a party, whether absolutely, for life or for a term of years,
- (d) for one spouse to be given exclusive possession of a matrimonial home or part thereof for life or for such lesser period as the court directs,
- (e) for a spouse to whom exclusive possession of a matrimonial home is given to make such periodic payments to the other spouse as are prescribed in the order,
- (f) for one spouse to be given exclusive possession of the contents of a matrimonial home or household goods or any part thereof,
- (g) fixing the obligation to repair and maintain a matrimonial home or to pay other liabilities arising in respect thereof,
- (h) for all or any of the money payable under the order to be paid into court or to any other appropriate person or agency for the benefit of a party,
- (i) for payment of maintenance in respect of any period before the date of the order,
- (j) for payment to the director of human resources of any amount in reimbursement for a benefit or assistance provided to a party, including an amount in reimbursement for such benefit or assistance provided before the date of the order,

- (k) for payment of expenses in respect of the pre-natal care and birth of a child,
- (l) for the designation by a spouse who has a policy of life insurance or an interest in a benefit plan of the other spouse or a child as the beneficiary,
- (m) for the securing of payment under the order, by a charge on property or otherwise, or
- (n) for interest or the payment of legal fees or other expenses arising in relation to maintenance,

and includes such a provision in a marriage contract, cohabitation agreement, separation agreement or affiliation agreement that is enforceable under the law of the Yukon.

(2) Anything required by this Act to be signed or done by a person, or referred to in this Act as signed or done by a person, may be signed or done by a lawyer acting on the person's behalf.

(3) Where a maintenance order has been made, reference to that maintenance order in this Act means the original of that maintenance order or a copy of that maintenance order certified by an officer of the court in which the order was made or registered.

(4) This Act binds the Crown.

## PART 1 ENFORCEMENT BY DIRECTOR

### Appointment and powers of director and officers

2.(1) There shall be a director of maintenance and custody enforcement who shall be appointed by the Commissioner in Executive Council.

(2) It is the duty of the director to enforce maintenance orders and custody orders that are filed in the office of the director in such manner, if any, as appears practicable and the director may, for the purpose, commence and conduct a proceeding and take steps for the enforcement of the order in the name of the director for the benefit of the claimant or the claimant's child.

(3) The director shall not charge a fee for services to persons on whose behalf the director acts.

(4) The director may designate members of the public service to be enforcement officers for the purposes of this Act.

(5) An enforcement officer may act for and in the name of the director.

### Filing of orders

3.(1) A maintenance order or custody order may be filed in the office of the director by a claimant.

(2) A maintenance order may be filed in the office of the director by the director of human resources.

(3) Every maintenance order made by a court in the Yukon, other than a provisional order, shall

- (a) state in the operative part of the order that it shall be enforced by the director and that amounts owing under the order shall be paid to the claimant through the director, unless the order is withdrawn from the office of the director, and
- (b) be filed in the office of the director by the clerk of the court that made it, forthwith after it is signed, unless the claimant files with the court and the office of the director a notice in writing signed by the claimant stating that the claimant does not wish to have the order enforced by the director.

(4) Every maintenance order made by a court outside the Yukon that is received by a court or an officer of the Government of the Yukon for enforcement in the Yukon shall be filed in the office of the director forthwith after it is received unless the order is accompanied by a notice in writing signed by the claimant the order stating that the claimant does not wish to have the order enforced by the director.

(5) A copy of a maintenance order that was made before this Act comes into force and filed for enforcement under the Reciprocal Enforcement of Maintenance Orders Act or the Matrimonial Property and Family Support Act shall be filed in the office of the director by the clerk of the court in which it is filed, forthwith after this Act comes into force.

### **Withdrawal after filing**

4.(1) The director may withdraw a maintenance order filed in the office where it appears to the director that the claimant is taking steps to enforce the maintenance order, 14 days after the director sends to the claimant a written notice sent by ordinary mail that the maintenance order will be withdrawn.

(2) The director may withdraw a maintenance order filed in the office on the application of the claimant, except where the maintenance order was filed by the respondent.

(3) The director may withdraw a maintenance order filed in the office by the respondent on the application of the respondent.

(4) A maintenance order or custody order that has been withdrawn may be refiled at any time by any person entitled to file the order under section 3.

(5) The director shall give notice of the filing or withdrawal of a maintenance order or custody order to all the parties to it and, on request of the director of human resources, to the director of human resources.

(6) Where a claimant has applied and is eligible for, or has received, a benefit under the Social Assistance Act, the director of human resources may file the order in the office of the director regardless of whether notice referred to in subsection 3(3) or (4) has been given, and the order shall not be withdrawn except by, or with the consent in writing of, the director of human resources.

**Enforcement by others**

5.(1) No person other than the director shall enforce a maintenance order or custody order that is filed in the office of the director.

(2) The director may enforce arrears of maintenance under a maintenance order notwithstanding that the arrears were incurred before the order was filed in the office of the director or before this Act comes into force.

**Enforcement information**

6.(1) The director may, for the purposes of enforcing a maintenance order or custody order that is filed in the office of the director,

- (a) demand and receive from any person or public body, including the Government of the Yukon, information as to the location, address and place of employment of the respondent that is shown on a record, other than personal correspondence between family members, in the possession or control of the person or body, notwithstanding the provisions of any other enactment or law restricting the disclosure of the information, and
- (b) provide information obtained under paragraph (a) to a person performing similar functions in another jurisdiction.

(2) Information obtained under paragraph (1)(a) shall not be disclosed to any person except as provided in paragraph (1)(b) or to the extent necessary for the enforcement of the order.

(3) Notwithstanding subsection (2), information obtained under paragraph (1)(a) may be disclosed to a police officer who needs the information for a criminal investigation.

(4) Where, on motion to the Supreme Court, it appears that

- (a) the director has been refused information after making a demand under paragraph (1)(a), or
- (b) a person has need of an order under this subsection for the enforcement of a maintenance order or custody order that is not filed in the office of the director,

the court may order any person or public body, including the Government of the Yukon, to provide the court or such person as the court directs with any information as to the location, address or place of employment of the respondent that is shown on a record, other than personal correspondence between family members, in the possession or control of the person or public body, notwithstanding the provisions of any other enactment or law restricting the disclosure of the information.

(5) Where the director has been refused information after making a demand under paragraph (1)(a) and obtains an order under subsection (4), the Supreme Court shall award the costs of the motion to the director.

(6) Information obtained under an order under subsection (4) shall not be disclosed except as permitted by the order or a subsequent order or as necessary for the enforcement of the maintenance order or custody order.

(7) Every person who, with respect to information obtained under subsection (1) or (4) that is not otherwise lawfully available to the public, contravenes subsection (2) or (6), commits an offence and is liable on conviction to a fine of not more than \$2,000 or to imprisonment for not more than six months, or both.

### **Payments and records of payments**

7.(1) The respondent required to make payments under an order shall remit each payment to the director and the director, after receiving and recording the payment, shall forward the payment to the claimant.

(2) The director shall make and maintain such records of orders, and such other records, as will enable the director to ascertain with reasonable dispatch the occurrence of any default in payment under the orders.

## **PART 2 ENFORCEMENT REMEDIES**

### **Jurisdiction**

8.(1) In this Part, "court" means the Supreme Court or the Territorial Court.

(2) The monetary limits of the jurisdiction of the Territorial Court set out in the Territorial Court Act do not apply in respect of an order of the Territorial Court made under this Part.

### **Enforcement alternatives**

9. Whether or not any other enforcement proceedings are being taken, the director may initiate any proceedings that would be available to the claimant, including, without limiting the generality of the foregoing, one or more of the following:

- (a) proceedings under the Garnishee Act;
- (b) registration of the maintenance order in the land titles office and sale of the property so charged as provided by section 12;
- (c) proceedings to obtain a writ of execution;
- (d) proceedings to realize upon any bond or security deposited under this or any other Act;
- (e) proceedings to obtain the appointment of a receiver as provided by section 13;
- (f) proceedings to bring the person in default before a judge for a show cause hearing as provided by section 14;
- (g) proceedings for the imposition of a penalty under this Act.

### **Garnishment**

10.(1) An obligation to pay money under a maintenance order may be enforced by garnishment in accordance with the provisions of the Garnishee Act.

(2) On the filing of the material prescribed by the Garnishee Act, the clerk of the court shall issue a writ of garnishment.

(3) On the filing of a writ or notice of garnishment that

- (a) is issued outside the Yukon,
- (b) states that it is issued in respect of support or maintenance, and
- (c) is written in or accompanied by a sworn or certified translation into English,

the clerk of the court shall issue a writ of garnishment under the Garnishee Act.

(4) A writ of garnishment issued under this section may seek to attach debts in respect of maintenance payments that have been ordered to be paid but that are not due at the time when the writ is issued or served.

(5) The amount sought to be attached by a writ issued under this section may be any amount that does not exceed the amount of maintenance ordered to be paid during the term of the writ, but no amount shall be required to be paid into court sooner than it is required to be paid under the maintenance order in respect of which the writ is issued.

(6) A writ of garnishment issued under subsection (4) may be set aside by the court where the court is satisfied that

- (a) there are no reasonable grounds for believing that the maintenance order will not be satisfied if the writ is set aside, and
- (b) having regard to the potential hardship and inconvenience to the respondent and to the potential benefit to the claimant, the writ does not achieve a result that is equitable in the circumstances.

(7) Section 48 of the Garnishee Act does not apply in respect of a writ ordered to be set aside under subsection (6).

(8) A notice of garnishment may be issued in respect of a garnishee who is outside the Yukon and shall

- (a) be signed and sealed by the clerk of the court,
- (b) state that it is issued in respect of maintenance,
- (c) set out the name, address and telephone number of the person who caused it to be issued and the name and address of the garnishee, and
- (d) be written in or accompanied by a sworn or certified translation into a language ordinarily used in the courts of the jurisdiction where it is to be served.

### **Sale of property**

11.(1) An obligation to pay money under a maintenance order may be enforced by seizure and sale of the respondent's real and personal property in accordance with the rules of court and the Executions Act.

(2) On the filing of the material required by the rules of court, the clerk of the court shall issue a writ of execution.

### **Registration against real property**

12.(1) A maintenance order may be registered against the real property of a respondent in the land titles office, and on registration the obligation under the order becomes a charge on the property.

(2) A charge created by subsection (1) may be enforced by sale of the property against which it is registered in the same manner as a sale to realize on a mortgage.

(3) A court may order the discharge, in whole or in part, or the postponement, of a charge created by subsection (1), on such terms as to security or other matters as the court considers just.

(4) An order under subsection (3) may be made only after notice to the director.

### **Receivership**

13. An obligation to pay money under a maintenance order or agreement may be enforced by the appointment of a receiver under the rules of court.

### **Default examinations and orders**

14.(1) Where an obligation to pay money under a maintenance order that is filed in the office of the director is in default, the director may prepare a statement of the arrears in the prescribed form, not including arrears that accrued before this Act comes into force, and the director may by notice served on the respondent together with the statement of arrears require the respondent to file in the office of the director a financial statement in the prescribed form and to appear before the court to explain the default.

(2) Where an obligation to pay money under a maintenance order that is not filed in the office of the director is in default, on the filing of a request together with a statement of arrears in the prescribed form, the clerk of the court shall by notice served on the respondent together with the statement of arrears require the respondent to file a financial statement in the prescribed form and to appear before the court to explain the default.

(3) Where the respondent fails to file the financial statement or to appear as required by the notice, the court may issue a warrant for the arrest of the respondent for the purpose of bringing the respondent before the court.

(4) At the default hearing, unless the contrary is shown, the respondent shall be presumed to have the ability to pay the arrears and to make subsequent payments under the order, and the statement of arrears prepared and served by the director shall be presumed to be correct as to arrears accruing while the order is filed in the office of the director.

(5) The court may, unless it is satisfied that there are no arrears or that the respondent is unable for valid reasons to pay the arrears or to make subsequent payments under the order, order that the respondent

- (a) discharge the arrears by such periodic payments as the court considers just,
- (b) discharge the arrears in full by a specified date,
- (c) comply with the order to the extent of the respondent's ability to pay, but an order under this paragraph does not affect the accruing of arrears,
- (d) provide security in such form as the court directs for the arrears and subsequent payment,
- (e) report periodically to the court, the director or a person specified in the order,

- (f) provide in writing forthwith to the court, the director or a person specified in the order particulars of any future change of address or employment,
- (g) be imprisoned continuously or intermittently for not more than 90 days unless the arrears are sooner paid, and
- (h) be imprisoned continuously or intermittently for not more than 90 days on default in any payment or action ordered under this subsection.

(6) The court may order the employer of a respondent to make a written return, either under oath or not, to the court showing the wages or other remuneration resulting from the employment of the respondent over the preceding 12 months.

(7) A return under subsection (6) purporting to be signed by the employer may be received in evidence as prima facie proof of its contents.

(8) The court that made an order under subsection (5) may vary the order where there is a material change in the respondent's circumstances.

(9) Imprisonment of a respondent under paragraph (5)(g) or (h) does not discharge arrears under an order.

(10) An order for security under paragraph (5)(d) or a subsequent order of the court may provide for the realization of the security by seizure, sale or other means, as the court directs.

(11) Proof of service on the respondent of a maintenance order is not necessary for the purpose of a default hearing.

(12) A default hearing under this section and a hearing on an application for variation of the maintenance order in default may be heard together or separately.

(13) The remedies available under this section are civil process and the Summary Convictions Act does not apply.

(14) Spouses are competent and compellable witnesses against each other on a default hearing.

(15) This section applies, with the necessary changes, to the requiring of the claimant to file a financial statement in the prescribed form.

### **Waste of assets**

**15.** A court may make an interim or final order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a maintenance order.

### **Absconding debtors**

**16.** Where it appears that a respondent is about to leave the Yukon in order to evade or hinder enforcement of a maintenance order against the respondent, a court may issue a warrant for the arrest of the respondent for the purpose of bringing the respondent before the court, and may make any order provided for in subsection 14(5).



**Order in which payments to be credited****17. Money paid on account of a maintenance order shall be credited**

- (a) first to the principal amount most recently due and then to any interest owing on that amount, and
- (b) then to the balance outstanding in the manner set out in paragraph(a) unless the respondent specifies otherwise at the time the payment is made or the court orders otherwise.

**Priority**

**18.** Arrears of payment under a maintenance order in an amount not exceeding one year's support at the current rate

- (a) have priority over other judgment debts, and
- (b) rank equally with like arrears under another maintenance order, regardless of when an enforcement process is issued or served.

**Creditors Relief Act**

**19.** Money realized under an enforcement process taken by or on behalf of the director in respect of money owing under a maintenance order is not subject to distribution among creditors under the Creditors Relief Act.

**Exemptions**

**20.** The exemptions under the Garnishee Act and the Exemptions Act are inapplicable with respect to any process issued by a court to enforce a maintenance order.

**Appeal**

**21.(1)** An appeal lies from an order of the Territorial court under this Act to the Supreme court.

(2) An appeal under subsection (1) shall be taken by notice of appeal given within 30 days from the date on which the decision or order against which the appeal is taken was given.

(3) The Supreme Court may grant an extension of time to appeal under subsection (1).

(4) The procedure for the conduct of an appeal under subsection (1) shall be, with such reasonable modifications directed by the Supreme Court as may be necessary, the same as for an appeal in the Court of Appeal.

(5) Upon hearing an appeal, the Supreme Court may affirm, reverse or modify the order appealed against, and make such other auxiliary order as seems proper.

**Capacity of minor**

**22.** A minor may commence, conduct and defend a proceeding and initiate and complete steps for enforcement of a maintenance order without the intervention of a guardian ad litem.

**Orders assigned to the government**

**23.** The director may enforce a support order that is assigned to the Government of the Yukon.

**Limitation period**

24. The limitation period for the enforcement of payment under a maintenance order is ten years.

**Effect of death**

25.(1) Where a respondent dies and at the time of death any payments are in default, the amount in default is, subject to subsection (3), a debt of the estate and recoverable by the claimant in the same manner as any other debt recoverable from the estate.

(2) Where a claimant dies, the personal representative of the deceased may, subject to subsection (3), recover for the estate of the deceased any payments in default at the time of death.

(3) For the purposes of subsections (1) and (2), where payments under an order are in default, a judge of the court that made the order may, on application, relieve the respondent or the estate of the respondent of the obligation to pay the whole or part of the amount in default if the judge is satisfied

- (a) that having regard to the interests of the respondent or the estate of the respondent it would be grossly unfair and inequitable not to do so, and
- (b) that having regard to the interests of the claimant or the estate of the claimant, it is justified.

**Evidence of director's documents**

26.(1) A statement of arrears signed by the director is admissible in evidence as prima facie proof of the arrears without prior notice to either party.

(2) A statement of the director that a maintenance order is filed in the office of the director is admissible as conclusive proof of the fact.

(3) Any document signed by the director with respect to the enforcement of a maintenance order is admissible in evidence without proof of the signature or official character of the director.

(4) Where the signature of the director is required for the purposes of this Act, the signature may be written, engraved, lithographed or reproduced by any other mode of reproducing words in visible form.

**Proof of default**

27. In an action brought on default of an obligation pursuant to a maintenance order, proof of the default may be made either by oral or affidavit evidence or by other evidence that the judge may allow.

**Debts**

28. The fact that a respondent is in debt or has paid debts is not a defence to proceedings brought to enforce a maintenance order.

**Privileged communications**

29. Notwithstanding any other Act, rule or law, in any proceedings brought pursuant to this Act, a person is compellable to disclose a communication made to the person by the person's spouse.

**Regulations**

30. The Commissioner in Executive Council may make regulations
- (a) respecting the procedure for taking proceedings under this Act;
  - (b) prescribing forms for use in proceedings under this Act.

**Agreements**

31. The Commissioner in Executive Council may enter into agreements with the Government of Canada in respect of any matter he considers advisable relating to the purposes and provisions of this Act.

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# **CHAPTER 109**

## **MANAGEMENT ACCOUNTANTS ACT**

### **General objects of the society**

1. The general objects of the society shall be to serve the public interest by promoting and increasing the knowledge, skill and efficiency of its members in all things relating to industrial or management accounting and business or government organization and administration including the preparation and interpretation of financial statements and financial reports for use by managers in business and governmental organizations in planning and controlling operations of the organization.

### **Constitution of the society**

2.(1) The Society of Management Accountants of Yukon is hereby constituted a body corporate.

(2) The head office of the society shall be at the City of Whitehorse.

### **Membership**

3.(1) The members of the society shall be classified as general members, student members and registered members with such other classification of members as may be authorized by its bylaws.

(2) General membership shall be available to anyone 16 years of age or over who is engaged or interested in industrial or management accounting or business organization and management.

(3) Student membership shall be available to all persons following a recognized course in accounting, industrial accounting or business organization and management leading to the society's examinations and shall be tenable for such period as may be laid down by the bylaws of the society.

(4) Registered members shall consist of the persons currently holding Registered Industrial Accounting Certificates and those students or general members who pass examinations of the society as prescribed under section 9 and otherwise fill the requirements of its bylaws.

### **Record and register of members**

4.(1) A record shall be kept at the head office containing the names of all general members and all student members.

(2) A register shall be kept at the head office in which shall be registered the names and addresses of all registered members.

(3) The record and register shall be open for inspection by the public at all times during regular office hours.

**Benevolent fund**

5. The society may establish and administer a benevolent fund for any member or the family of any deceased member of the society who may require financial assistance, and for that purpose may make and receive contributions.

**Administration of the society**

6.(1) The affairs and business of the society shall be administered by a council of not less than four registered members, three of whom shall constitute a quorum, and who shall hold office for a term of one year or until their successors are elected.

(2) When a vacancy occurs in the council from any cause, the remaining members of the council may appoint any registered member of the society to fill the vacancy until the next annual meeting of the society, and the majority of such members shall constitute a quorum for such purpose.

**General meetings**

7.(1) A general meeting of the members of the society shall be held annually at such time and place and upon such notice as is provided in the bylaws of the society for the purpose of electing the council and for such other business as may be brought before the meeting.

(2) Special general meetings of the members may be called and held in accordance with the bylaws of the society.

**Election of officers**

8. The council shall elect from its members a president and a vice-president, and may appoint a secretary-treasurer, a registrar and such other officers and employees as may be provided for in the bylaws of the society.

**Bylaws**

9.(1) Without limiting its powers, the council may pass bylaws which shall not come into force until approved by an annual general meeting of the society or at a special general meeting thereof called for the purpose of considering the same, for the following purposes:

- (a) to prescribe courses of study, and all matters, conditions and requirements respecting examinations for admission as registered members and the certificates to be granted to them;
- (b) to establish and to collaborate with educational institutions in establishing lectures, classes and examinations for members of the society in industrial or management accounting and business and government organization and management;
- (c) to authorize agreements between the society and any university, college or school for lectures, classes and examinations;
- (d) to prescribe the rights and obligations of its various classes of members;
- (e) to regulate the admission, qualification, conduct, suspension and expulsion of the members of the society;
- (f) to fix the admission and annual fees to be paid by the members and also the examination fees to be paid by applicants for the society's examination;
- (g) to provide for the appointment, functions, duties, remuneration, and removal of officers and employees of the society;

- (h) to establish chapters of the society within the Yukon and to enroll members of the society;
- (i) to affiliate with any other body, corporate or unincorporate, having objects similar to those of the society;
- (j) to govern the election of members of the council;
- (k) to regulate the calling and holding of meetings of the members of the society and of its council and the procedure at such meetings;
- (l) generally, to carry out the purposes of this Act.

(2) Any bylaw made pursuant to subsection (1) may be annulled by the Commissioner in Executive Council.

(3) The secretary of the society shall send a copy of every bylaw to the Commissioner in Executive Council within one week after the passing thereof.

#### **Use of titles and abbreviations**

10.(1) Registered members of the society in good standing have the exclusive right to use, as an occupational designation in relation to industrial or management accounting or business or government organization or administration, the designations "Registered Industrial Accountant" and "Certified Management Accountant" and the initials "R.I.A." and "C.M.A."

(2) A registered member of the society in good standing may engage in the practice of, and hold himself out to the public as practising as, an industrial or management consultant.

(3) Any person who is not a registered member of the society in good standing and who uses, as an occupational designation in relation to industrial or management accounting or business or government organization or administration, the designation "Registered Industrial Accountant" or "Certified Management Accountant" or the initials "R.I.A." or "C.M.A.", or who uses any other description implying that he is a registered member of the society in good standing, commits an offence.

(4) Any person who is guilty of an offence under this section shall incur a penalty not exceeding \$25 for each offence.

#### **Rights to carry on business**

11. This Act does not affect or interfere with the right of any person to carry on business in the Yukon as an accountant, a cost accountant, an industrial accountant or a management accountant, or to designate himself as such.

#### **Use of profits of the society**

12. Any profits derived from carrying on the affairs and business of the society shall be devoted and applied solely in promoting and carrying out its objects and purposes and shall not be divided amongst its members, except as provided by section 5.

#### **Professional conduct committee**

13. There shall be a professional conduct committee with powers and duties contained in this Act.

**Constitution of the committee**

14. The professional conduct committee shall be the professional conduct committee of the society of Management Accountants of British Columbia.

**Responsibilities of the committee**

15. The professional conduct committee shall be responsible for the initiation of the disciplinary work of the society and in the execution of these duties shall have power

- (a) to receive in writing from any person, a charge or complaint of professional misconduct by any member or student,
- (b) to receive in writing from any member, a charge or complaint of unfitness, lack of moral character or professional misconduct of any member or student,
- (c) to make such preliminary investigation and inquiry as it deems proper into any such charge or complaint or into any act, omission, matter or thing that may constitute or involve unfitness, lack of moral character or professional or other misconduct of any such member or student, or which may constitute or involve violation of the bylaws, rules and regulations of the society or which may be, or may have been derogatory to the reputation, dignity or honour of the society,
- (d) to make a charge in the committee's absolute discretion, and
- (e) to require the attendance of any member or student and to require production of such evidence that may be deemed necessary to the work of the committee, and for that purpose the committee has all the powers of a board of inquiry appointed pursuant to the Public Inquiries Act.

**Disciplinary action**

16. If after a formal hearing the professional conduct committee finds cause for disciplinary action, it may order any one or more of the following:

- (a) that any such member or student shall be reprimanded by the chairperson of the professional conduct committee or disciplined in such a way that may be from time to time determined;
- (b) that any such student shall be struck off the register of students;
- (c) that any such member shall be expelled from the membership of the society, or that any such member shall be permitted to resign;

and shall report its action to the council.

**Appeal**

17.(1) Any person who feels himself aggrieved by any order of the professional conduct committee made pursuant to section 16 may appeal the order to a judge at any time within three months of the date of the order.

(2) With the notice of appeal the appellant shall file a copy of the proceedings, the evidence taken, the order of the council in the matter and the reasons therefor, if any, certified by the chairperson.

(3) The record for the purpose of the appeal shall consist of the material mentioned in subsection (2).



(4) The appellant shall cause to be served upon the council and the complainant, if any, a copy of the notice of appeal.

(5) Upon the hearing of the appeal the Supreme Court may sustain, reverse, alter or amend the order, or remit the matter to the council for rehearing, or may make such other order as to costs or otherwise as to the Supreme Court seems right.

(6) Every appeal shall be heard and determined upon its merits and shall not be defeated by reason of any technical defect in the proceedings.

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# CHAPTER 110

## MARRIAGE ACT

### **Interpretation**

1. In this Act,

“cleric” means a person duly ordained or appointed by his religious body and authorized by this Act to solemnize marriage;

“issuer” means a person appointed under this Act to issue licences;

“licence” means a marriage licence issued under this Act;

“marriage commissioner” means a person who is not a cleric who is appointed or authorized under this Act to solemnize marriage;

“religious body” includes a church, religious denomination, sect, congregation or society.

### **Registration of clerics**

2.(1) Subject to subsection (2), the Executive Council Member shall keep a register of the names of clerics who permanently reside in the Yukon and whose names have been submitted to him by the ecclesiastical authorities of the religious bodies in which they are ordained or by which they are appointed.

(2) The Executive Council Member shall decide whether a religious body from which he receives a certified list of the names of its clerics resident in the Yukon is established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, as to warrant the registration of its clerics under this Act and may refuse to register the names of clerics submitted by a religious body generally or the names of any particular clerics.

(3) The Executive Council Member shall issue a certificate of registration to each cleric registered under subsection (1).

(4) Subject to subsection (2), the Executive Council Member may register clerics who are temporarily resident in the Yukon and whose names have been submitted by their religious body and may issue certificates of registration to such clerics to be valid for the period fixed by the Executive Council Member and named in the certificate.

### **Duty of religious bodies**

3. The proper ecclesiastical authorities of each religious body whose clerics are authorized to solemnize marriage shall annually, or oftener if required by the Executive Council Member, supply the Executive Council Member with a certified list in the prescribed form of clerics to be registered and shall notify the Executive Council Member of every cleric who has died or who has ceased to reside in the Yukon or who has in any other way ceased to possess the qualifications qualifying him to be registered.

**Cancellation of registration**

4. The Executive Council Member may at any time, as the result of information received by him under section 3, strike the name of a cleric off the register and cancel his certificate of registration.

**Marriage commissioners**

5.(1) The Commissioner in Executive Council may appoint persons as marriage commissioners with authority to solemnize civil marriages under this Act.

(2) Every justice of the peace is ex officio a marriage commissioner.

**Fee**

6. A marriage commissioner is entitled to a fee of \$5 for each marriage solemnized by him under this Act.

**SOLEMNIZATION OF MARRIAGE**

**Persons qualified to solemnize marriage**

7.(1) Every cleric who holds a valid certificate of registration under this Act and every marriage commissioner may solemnize marriage in the Yukon between persons not under a legal disqualification to contract marriage.

(2) No person other than a cleric or marriage commissioner shall solemnize a marriage in the Yukon.

**Preliminaries required**

8.(1) No cleric shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Act or, where banns are published in lieu of a licence, unless the provisions of this Act relating to the publication of banns have been complied with.

(2) No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Act.

**Date of solemnization**

9.(1) No marriage shall be solemnized unless it takes place within three months after the second publication of the banns or within three months after the issue of a licence, as the case may be.

(2) No marriage shall be solemnized until after the expiry of 24 hours from the time of issue of the licence therefor.

**Requirement for witnesses**

10. No marriage shall be solemnized unless at least two adult credible witnesses are present at the ceremony in addition to the contracting parties and the person performing the ceremony.

**Hours for solemnization**

11. No marriage shall be solemnized between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the officiating cleric or marriage commissioner is satisfied from evidence adduced to him that the proposed marriage is lawful and that exceptional circumstances exist that render its solemnization between those hours advisable.

**Where party does not understand language used**

12. No cleric or marriage commissioner shall solemnize a marriage where either of the contracting parties does not speak or understand the language in which the ceremony is to be performed unless an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

**Civil marriage**

13. Where a marriage ceremony is performed by a marriage commissioner

- (a) each of the parties to the marriage shall, in the presence of the marriage commissioner and the witnesses, make the following declaration: "I, ....., do solemnly declare that I do not know of any lawful impediment why I, ....., may not be joined in matrimony to .....", and
- (b) each of the parties shall, in the presence of the marriage commissioner and the witnesses, say to the other party: "I call upon these persons here present to witness that I, ....., do take thee, ..... to be my lawful wedded husband (or wife)."

**Second ceremony**

14.(1) Persons who, having been married in accordance with the provisions of this Act relating to civil marriage, desire a second ceremony for religious purposes may have that ceremony performed.

(2) The second ceremony referred to in subsection (1) is supplemental to and does not supersede the prior civil marriage and shall not be registered as a marriage.

(3) The licence obtained for the prior civil marriage is sufficient for the purposes of the second ceremony and the second ceremony need not be performed within three months from the issue of the licence.

**Registration and certificate of marriage**

15.(1) Subject to subsection 14(2), every person who is authorized to solemnize marriage under this Act shall register every marriage solemnized by him in accordance with the provisions of the Vital Statistics Act.

(2) Upon completion of the marriage ceremony, the officiating cleric or marriage commissioner shall furnish the contracting parties with a certificate of marriage.

**Limitation of liability**

16. No cleric or marriage commissioner is subject to an action or liable for damage by reason of the existence of a legal impediment to the marriage, unless, at the time he performed the ceremony, he was aware of the impediment.

**Effect of lack of authority**

17. No marriage is invalid by reason only that the person performing the ceremony was not then registered under this Act.

**Liquor**

18.(1) No person shall perform a marriage ceremony where he knows or has reason to believe that either of the contracting parties is under the influence of liquor at the time of the ceremony.

(2) No person shall go through a form of marriage with any person in the Yukon if he knows or has reason to believe that such person is under the influence of liquor at the time of the ceremony.

**PUBLICATION OF BANNS**

**Publication procedure**

19.(1) Persons intending to marry do not require a licence where banns are published in accordance with this section.

(2) Intention to marry shall be proclaimed openly and in an audible voice during divine service at least once on two successive Sundays in the place of public worship in which both of the persons intending to marry have been attending worship or in some place of public worship of the religious body with which the cleric who is to perform the marriage ceremony is connected in the local municipality, parish, circuit or pastoral charge where both of the persons intending to marry have, for the space of 15 days immediately preceding had their usual place of abode.

(3) Where the practice of faith of a religious body substitutes Saturday or some other day as the usual and principal day of the week for the celebration of divine service, proclamation of banns may be made on two consecutive Saturdays or such other days.

(4) Where both of the persons intending to marry do not reside in the same local municipality, parish, circuit or pastoral charge, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, if within Canada, where the other of the contracting persons has, for the space of 15 days immediately preceding, had his or her usual place of abode and the marriage shall not be solemnized until there is delivered to the officiating cleric a certificate in the prescribed form showing that the proclamation has been made.

(5) Notwithstanding anything in this section, where, by reason of remoteness or otherwise, divine service, by the cleric who is to perform the marriage ceremony, is not regularly held on successive Sundays, Saturdays or other days at a place in the Yukon, intention to marry shall, at that place, be proclaimed at not less than two successive divine services other than in the same day, openly and in an audible voice by the said cleric.

**Documents required for publication of banns**

20.(1) Before publication of banns each of the persons intending to marry shall personally and separately make a statutory declaration in the prescribed form before the cleric who is to proclaim the banns.

(2) A cleric who is to proclaim banns may take declarations and administer oaths for the purposes of this section.

(3) Before publication of banns, where either of the persons intending to marry has been previously married or is a minor, the declarations, proofs, consents or other documents respecting previously married persons or minors required by this Act shall be furnished by that person to the cleric who is to proclaim the banns.

(4) A cleric who proclaims banns shall, where he is not also the cleric who is to solemnize the marriage, transfer all documents received by him pursuant to this section to the cleric who is to solemnize the marriage within 48 hours after the second publication of banns has been made.

**Certificate of publication of banns**

21. Where either party to the intended marriage desires a certificate of publication of banns the cleric who proclaims the banns, upon payment to him of a fee of \$0.50, shall furnish a certificate in the prescribed form.

**Cleric to forward documents to government**

22. Within 48 hours after the solemnization of a marriage subsequent to the publication of banns the officiating cleric shall forward to the Executive Council Member a certificate of the publication of banns in the prescribed form, the statutory declarations in the prescribed form required under section 20 and, in respect of persons previously married or minors, the declarations, proofs, consents or other documents required by this Act to be furnished to him by the contracting parties or transferred to him by the cleric who proclaimed the banns.

**Effect of irregularities**

23. No irregularity or insufficiency in the proclamation of the intention to marry where banns are published or in the certificate of publication shall invalidate a marriage.

**MARRIAGE LICENCES**

**Appointment of licence issuers**

24. The Commissioner in Executive Council may appoint persons to issue marriage licences under this Act.

**Monthly returns**

25.(1) Every issuer shall on the first day of every month make a return to the Executive Council Member of all licences issued by him during the preceding month with the names of the persons to whom the licences were issued and shall forward to the Executive Council Member the statutory declaration in the prescribed form taken in each instance together with documents required to be deposited with him respecting previously married persons or minors or any other documents required to be deposited with him under this Act.

(2) The Executive Council Member may in his discretion alter the periods in which returns shall be made by an issuer or may order special returns to be made.

**Fees**

26. Upon application for a licence, the applicant shall pay the prescribed fee to the issuer who shall forthwith transmit to the Executive Council Member such portion of the fee as may be prescribed.

**Appointment of deputy issuers and powers**

27.(1) An issuer who is prevented from acting by sickness may, with the approval of the Executive Council Member, appoint in writing for a period not exceeding three months, a deputy issuer to act for him in his absence.

(2) Every deputy issuer shall sign each licence issued by him in the following manner: “....., issuer of marriage licences, per ....., deputy issuer.”

(3) A deputy issuer has the same powers and duties as an issuer.

**Issuer may take declarations**

28. An issuer may take declarations and administer oaths for the purposes of this Act.

**Prohibition**

29. No issuer or deputy issuer shall issue a licence for his own marriage.

**Form of licences**

30.(1) Licences shall be in the prescribed form.

(2) Every issuer shall fill out the blanks and endorse on the licence the date and time of issue and shall sign each licence at the time of issue.

**Issuer to read licence to parties**

31.(1) The issuer shall satisfy himself that both parties to the intended marriage fully understand the contents of a licence and shall read over the form of licence to each of the parties separately.

(2) Where either of the parties to the intended marriage does not understand the English language an independent interpreter shall be employed to explain the contents of the licence to that party.

**Statutory declaration**

32. Before a licence is issued each of the persons for whose marriage it is to be issued shall personally and separately make a statutory declaration in the prescribed form before the issuer.

**Where resident party unable to attend**

33.(1) Where either of the contracting parties is resident in the Yukon but is unable to make the declaration required in section 32 personally before the issuer, the issuer may permit that party to make a declaration in the prescribed form before a justice of the peace, commissioner for oaths or notary public.



(2) The declaration permitted under subsection (1) shall contain the reason relied upon to excuse personal attendance before the issuer and shall be delivered to the issuer at least seven days before the issue of the licence.

#### **Where party is not a resident**

34.(1) Where one of the contracting parties resides outside the Yukon and is unable personally to appear before the issuer, the issuer may, in his discretion, issue a licence upon the declaration in the prescribed form to be taken before the issuer by the other contracting party.

(2) The declaration under subsection (1) shall be made at least seven days before the issue of the licence.

#### **Time for issue of licence**

35. No licence shall be issued between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the issuer is satisfied from evidence adduced to him that the proposed marriage is lawful and that exceptional circumstances exist that render the issue of a licence between those hours advisable.

#### **Effect of irregularity**

36. No irregularity in the issue of a licence where it has been obtained or acted on in good faith shall invalidate a marriage solemnized in pursuance thereof.

### **PERSONS PREVIOUSLY MARRIED**

#### **Certificate of death of deceased spouse**

37.(1) Subject to subsection (2), where either of the parties intending to be married is a widow or widower, she or he shall furnish to the cleric proclaiming the banns or an issuer of marriage licences, as the case may be, a certificate of the death of the former spouse issued under the Vital Statistics Act, or the law respecting vital statistics of the place where the death is registered.

(2) Where a cleric or issuer is satisfied that a widow or widower cannot obtain a certificate of death of the deceased spouse, he may accept as proof of death an affidavit made by a credible adult person who has knowledge of the death.

(3) An affidavit under subsection (2) must be made by a credible adult person other than either of the persons intending to marry and shall be sworn before a justice of the peace, commissioner for oaths or notary public.

#### **Application for presumption of death**

38. A previously married person who has a subsisting order of declaration of presumption of death of his or her previous spouse under the Presumption of Death Act, and who wishes to marry again shall deliver a certified copy of the subsisting order to the cleric proclaiming the banns or to an issuer of marriage licences, as the case may be, together with a statutory declaration made by that person in the prescribed form, and a statutory declaration in the prescribed form made by the other contracting party of the intended marriage.

**Where previous marriage dissolved or annulled**

**39.(1)** Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled in the Yukon, that party shall furnish to the cleric proclaiming the banns or to an issuer of marriage licences, as the case may be,

- (a) a certificate of the dissolution or annulment obtained from an appropriate official under the Vital Statistics Act, or
- (b) a certified copy of the degree absolute or decree of annulment obtained from the clerk of the appropriate court and, where an appeal from such decree is permitted, a certificate from the clerk of the Supreme Court showing that no appeal has been brought within the time limited for appeal and that that time has expired or that, if brought, the appeal has been dismissed.

(2) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled elsewhere than in the Yukon that party shall furnish to the cleric proclaiming the banns or to an issuer of marriage licences, as the case may be, a certificate of the dissolution or annulment, or the decree absolute or decree of annulment or a certified or notarial copy thereof, obtained from a public or court official of the province, state or country in which the marriage was dissolved or annulled.

**MINORS**

**Consent required for marriage**

**40.(1)** A party to an intended marriage who is under the age of 19 years is a minor within the meaning of this Act.

(2) Before the publication of banns or the issue of a licence, a minor shall deposit with the cleric who is to proclaim the banns or with the issuer a consent to the marriage in the prescribed form.

(3) A consent required under subsection (2) shall be executed

- (a) by both parents of the minor where both his parents are living and are not legally separated,
- (b) by the surviving or other parent of the minor where one of his parents is dead or is a patient in a mental institution,
- (c) by the parent or other person who has legal custody of the minor where his parents are legally separated, or
- (d) by a lawfully appointed guardian of the minor or by an acknowledged guardian who has brought up the minor or has supported him for at least three years preceding the intended marriage where both his parents are dead or where both parents are patients in a mental institution or the surviving parent is a patient in a mental institution.

(4) The consent required by this section is a condition precedent to a valid marriage, unless the marriage has been consummated or the contracting parties have, after the ceremony, cohabited and lived together as husband and wife.

**Statutory declaration in lieu of consent**

**41.**(1) The consent mentioned in section 40 shall not be required when a minor is at least 18 years of age and deposits with the cleric who is to proclaim the banns or with the issuer a statutory declaration in the prescribed form, made by the minor and sworn before a justice of the peace, commissioner for oaths or notary public.

(2) The statutory declaration referred to in subsection (1) shall show

- (a) that the parents of the minor are dead and that there is no guardian of the minor,
- (b) that a parent whose consent is required is not a resident of the Yukon and that the minor has been a resident of the Yukon for 12 months preceding the date of the declaration,
- (c) that the parents of the minor are patients in a mental institution or that the surviving parent is a patient in a mental institution and that there is no guardian of the minor, or
- (d) that the minor has, for not less than six months immediately preceding the date of the statutory declaration, been living apart from his parents or guardian and has not received financial aid or support from his parents or guardian within that period.

**Order dispensing with consent**

**42.**(1) Where a minor cannot obtain a consent required under section 40 or the consent is refused, he or she may apply to a judge of the Supreme Court for and the judge may grant an order dispensing with such consent.

(2) Where an order has been granted under subsection (1) the minor shall deposit the order or a certified copy thereof with the cleric who is to proclaim the banns or with the issuer before banns are published or a licence is issued, as the case may be.

**Request for birth certificate**

**43.** Where the cleric who is to proclaim the banns or the issuer, as the case may be, is not satisfied that a minor is over the age of 15 years he may require the minor to furnish a birth certificate or, in lieu thereof, an affidavit showing the age of the minor and made by a credible adult who has knowledge of the date of the birth of the minor.

**VALIDITY OF CERTAIN MARRIAGES****Registration dispensed with under certain conditions**

**44.** Where it is made to appear by statutory declaration to the satisfaction of the Executive Council Member that a marriage has been solemnized in the Yukon in good faith and in intended compliance with this Act by a cleric or marriage commissioner and that, in ignorance of the requirements of this Act, the marriage was not registered and where

- (a) neither of the parties to the marriage was at that time under any legal disqualification to contract the marriage,
- (b) after the marriage the parties lived together and cohabitated as husband and wife, and

(c) the validity of the marriage has not been questioned by action in any court, the Executive Council Member may in writing declare that the requirements of this Act as to registration are waived in respect of that marriage and that the marriage has been lawful and valid from the date of solemnization.

### **Nullity of marriage**

**45.(1)** Where a form of marriage is gone through between persons either of whom is a minor, without the consent required by this Act, and the marriage has not been consummated and the parties thereto have not, after the ceremony, cohabitated and lived together as husband and wife, a judge has jurisdiction to entertain an action by the contracting party who was at the time of the ceremony a minor and to declare and adjudge that a valid marriage was not effected or entered into.

(2) A judge shall not declare a marriage void under subsection (1) where he is satisfied from evidence adduced to him that sexual intercourse has taken place between the parties before their marriage was solemnized.

(3) A judge shall not declare a marriage void upon consent of the parties or in default of appearance or of pleading or otherwise than after a trial.

(4) At every trial under subsection (1) the evidence shall be taken viva voce but the judge may permit the use of depositions of witnesses residing out of the Yukon or of witnesses examined de bene esse.

(5) The judge may order the examination of both or of either of the parties before him touching the matters in question in the action and may order either party to submit to a physical examination by a medical practitioner appointed for the purpose by the judge.

## **OFFENCES AND PENALTIES**

### **Issuers**

**46.** Every issuer who

- (a) issues a licence without first having obtained all the documents required by this Act,
- (b) issues a licence where either contracting party is prohibited from marrying under this Act,
- (c) fails to make any return or payment required by this Act, or
- (d) neglects or refuses to perform any duty that he is required by this Act to perform,

commits an offence and is liable on summary conviction to a fine not exceeding \$100.

### **Issue of licences by unauthorized persons**

**47.** Every person who issues or purports to issue licences or issues any documents purporting to be a marriage licence and who is not a duly appointed issuer under this Act commits an offence and is liable on summary conviction to a fine not exceeding \$500.

**Solemnizing marriage contrary to Act**

48. Every person who solemnizes a marriage contrary to the provisions of this Act commits an offence and is liable on summary conviction to a fine not exceeding \$500.

**Performing ceremony after removal from office**

49. Every person who, having been a cleric or marriage commissioner with authority to solemnize marriage, has been deposed or removed from his ministry or office and who solemnizes or undertakes to solemnize a marriage after he has been deposed or removed commits an offence and is liable on summary conviction to a fine not exceeding \$500 or to a term of imprisonment not exceeding 12 months.

**False statements**

50. Every person who wilfully makes or causes to be made a false statement of particulars required to be recorded or reported under this Act commits an offence and is liable on summary conviction to a fine not exceeding \$50.

**General penalty**

51. Every person who violates a provision of this Act for which no other penalty is provided commits an offence and is liable on summary conviction to a fine not exceeding \$20.

**Time limit for prosecution**

52. Every prosecution for an offence under this Act shall be commenced within two years from the date of the offence.

**Consent to prosecution**

53. No prosecution for an offence under this Act shall be commenced until the permission of the Executive Council Member has been obtained.

**Regulations**

54.(1) The Commissioner in Executive Council may prescribe the fees to be charged under this Act.

(2) The Commissioner in Executive Council may prescribed the forms to be used for the purposes of this Act.

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# CHAPTER 111

## MARRIED WOMEN'S PROPERTY ACT

### Interpretation

1. In this Act, "property" includes a thing in action and any interest in real or personal property.

### Capacity and liabilities of married woman

2. Subject to the provisions of this Act, a married woman

- (a) continues to be liable in respect of any tort committed, contract entered into or debt or obligation incurred by her before marriage,
- (b) is capable of rendering herself and being rendered liable in respect of any contract, debt or obligation,
- (c) is capable of acquiring, holding and disposing of any property,
- (d) is capable of suing and being sued in tort, contract or otherwise,
- (e) is subject to the enforcement of judgments and orders, and
- (f) is capable of acting in any fiduciary or representative capacity,

in all respects as if she were unmarried.

### Property of married woman

3.(1) All property that

- (a) immediately prior to April 1, 1955, was the property of a married woman,
- (b) belongs, at the time of her marriage, to a woman married after April 1, 1955,  
or
- (c) after April 1, 1955, is acquired by, or devolves upon, a married woman,

belongs to her in all respects as if she were unmarried and may be dealt with accordingly.

(2) Nothing in subsection (1) interferes with or renders inoperative a restriction upon anticipation or alienation attached to the enjoyment of any property and contained in an instrument executed prior to April 1, 1955.

(3) An instrument executed after April 1, 1955, in so far as it purports to attach to the enjoyment of property by a married woman a restriction upon anticipation or alienation that could not be attached to the enjoyment of that property by a woman, is void.

(4) For the purposes of the provisions of this section relating to restrictions upon anticipation or alienation,

- (a) an instrument executed after April 1, 1955, attaching such a restriction pursuant to an obligation imposed prior to April 1, 1955, is deemed to have been executed prior to April 1, 1955,
- (b) a restriction contained in an instrument made in exercise of a special power of appointment is deemed to be contained in that instrument only and not in the instrument by which the power was created, and

- (c) the will of a testator who dies at any time after three years from April 1, 1955, is, notwithstanding the actual date of the execution of the will, deemed to have been executed after April 1, 1955.

**Limitations on husband's liability**

4. The husband of a married woman is not, by reason only of his being her husband, liable

- (a) in respect of a tort committed by her before or after marriage, or
- (b) in respect of a contract entered into, or a debt or obligation incurred by her before marriage.

**Saving provision**

5. Nothing in this Act

- (a) exempts a husband from liability in respect of any contract entered into, or debt or obligation incurred by his wife after marriage in respect of which he would be liable if this Act had not been passed,
- (b) prevents a husband and wife from acquiring, holding or disposing of property jointly or as tenants in common or from rendering themselves or being rendered jointly liable in respect of any tort, contract, debt or obligation, or from suing or being sued in tort, contract or otherwise in like manner as if they were not married, or
- (c) prevents the exercise by a husband and wife of any joint power given to the husband and wife.

**Remedies for protection of property and tort**

6.(1) A married woman has in her own name against all persons, including her husband, the same remedies for the protection and security of her property as if she were unmarried.

(2) A married man has against his wife the same remedies for the protection and security of his property as his wife has against him for the protection and security of her property.

(3) Subject to subsections (1) and (2), no husband or wife is entitled to sue the other in tort, except in respect of a tort committed while living apart under a separation agreement or under a decree or order for judicial separation.

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# **CHAPTER 112**

## **MECHANICS LIEN ACT**

### **Interpretation**

1. In this Act,

“contractor” means a person contracting with or employed directly by the owner for the doing of work or placing or furnishing of machinery or materials for any of the purposes mentioned in this Act;

“land” includes fixtures within the meaning of the Personal Property Security Act;

“sub-contractor” means a person not contracting with or employed directly by the owner for the purposes aforesaid but contracting with or employed by the contractor or under him by another sub-contractor;

“owner” includes a person having any estate or interest in the lands upon or in respect of which the work is done or materials or machinery are placed or furnished, at whose request and upon whose credit or on whose behalf or consent or for whose direct benefit any such work is done or materials or machinery placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials or machinery furnished have been commenced to be furnished.

### **Third party rights**

2. No agreement shall be held to deprive any one otherwise entitled to a lien under this Act, and not a party to the agreement, of the benefit of the lien but the lien shall attach notwithstanding such agreement.

### **Creation of lien**

3. Unless he signs an express agreement to the contrary, every mechanic, machinist, builder, miner, labourer, contractor or other person doing work upon or furnishing materials to be used in the construction, alteration or repair of any building or erection, or erecting, furnishing or placing machinery of any kind in, upon or in connection with any building, erection or mine, shall, by virtue of being so employed or furnishing, have a lien for the price of the work, machinery or materials, upon the building, erection or mine, and the lands occupied thereby or enjoyed therewith, limited in amount to the sum justly due to the person entitled to the lien.

### **Property upon which lien shall attach**

4.(1) The lien shall attach upon the estate and interest of the owner in the building, erection or mine in respect of which the work is done or the materials or machinery placed or furnished and the land occupied thereby or enjoyed therewith.

(2) In cases where the estate or interest charged by the lien is a leasehold, the land itself may also, with the consent of the owner thereof, be subject to the lien if such consent is testified by the signature of such owner upon the claim of lien at the time of the registering thereof and duly verified.

(3) In case the land upon or in respect of which any work as aforesaid is executed or labour performed or upon which materials or machinery are placed is encumbered by a prior mortgage or other charge and the selling value of the land is increased by the construction, alteration or machinery, the lien under this Act shall be entitled to rank upon the increased value in priority to the mortgage or other charge.

**Claim for wages**

5.(1) Without prejudice to any lien that he may have under the preceding sections, every mechanic, labourer or other person who performs labour for wages upon the construction, alteration or repairs of any building or erection or in erecting or placing machinery of any kind in, upon or in connection with any building, erection or mine shall to the extent of the interest of the owner have upon the building, erection or mine and the land occupied thereby or enjoyed therewith a lien for such wages, not exceeding the wages of 30 days or a balance equal to his wages for 30 days.

**Holdback**

6. In all cases the owner shall in the absence of a stipulation to the contrary be entitled to retain for a period of 30 days after the completion of the contract ten percent of the price to be paid to the contractor.

**Lien claimed by sub-contractor**

7. In case the lien is claimed by a sub-contractor the amount that may be claimed in respect thereof shall be limited to the amount payable to the contractor or sub-contractor, as the case may be, for whom the work has been done or the materials or machinery have been furnished or placed.

**Payments made in good faith without notice of lien**

8.(1) All payments up to 90 percent of the price to be paid for the work, machinery or materials mentioned in section 3, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such owner, contractor or sub-contractor, as the case may be, of the claim of such person, shall operate as a discharge pro tanto of the lien created by this Act, but this section does not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Act.

(2) A lien shall, in addition to all other rights or remedies given by this Act, also operate as a charge to the extent of ten percent of the price to be paid by the owner for the work, machinery or materials mentioned in section 3, up to ten days after the completion of the work or of the delivery of the materials in respect of which such lien exists and no longer, unless notice in writing be given as herein provided.

(3) A lien for wages for 30 days or for a balance equal to the wages for 30 days, shall, to the extent of ten percent of the price to be paid to the contractor, have priority over all other liens under this Act and over any claim by the owner against the contractor for, or in consequence of the failure of the latter to complete his contract.

**Lien not to increase liability of owner**

9. Except as herein provided, the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor.

**Persons having claims against the lienholders**

10. All persons furnishing material to or doing labour for the person having a lien under this Act in respect of the subject of such lien, who notify the owner of the premises sought to be affected thereby, within 30 days after such material is furnished or labour performed, of an unpaid account or demand against such lienholder for such material or labour, shall be entitled, subject to sections 5 and 8, to a charge therefor pro rata upon any amount payable by such owner under said lien; and if the owner thereupon pays the amount of such charge to the person furnishing material and doing labour as aforesaid, such payment shall be deemed a satisfaction pro tanto of such lien.

**Disputes to be settled by action or arbitration**

11. In case of a dispute as to the validity or amount of an unpaid account or demand, of which notice is given to the owner under section 10, the same shall be first determined by action in the Supreme Court in that behalf, or by arbitration in the manner mentioned in section 13, at the option of the person having the unpaid account or demand against the lien holder; and pending the proceedings to determine the dispute, so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien.

**Failure to pay**

12. Where the person primarily liable to the person giving notice as mentioned in section 10 fails to pay the amount awarded within ten days after the award is made or judgment given, the owner, contractor or sub-contractor may pay the same out of any money due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished or placed in respect of which the debt arose; and such payment, if made after an award or judgment, or if made without any arbitration or suit having been previously had or dispute existing, then, if the debt in fact existed, and to the extent thereof shall operate as a discharge pro tanto of the money so due to the person primarily liable.

**Arbitration of sub-contractor's claim**

13.(1) Where a claim is made by a sub-contractor in respect of a lien on which he is entitled, and a dispute arises as to the amount due or payable in respect thereof, the same shall be settled by arbitration.

(2) One arbitrator shall be appointed by the person making the claim, one by the person by whom he was employed and the third arbitrator by the two so chosen.

(3) The decision of the arbitrators or a majority of them shall be final and conclusive.

(4) In case either of the parties interested in any such dispute refuses or neglects within three days after notice in writing requiring him to do so, to appoint an arbitrator, or if the arbitrators appointed fail to agree upon a third, the appointment may be made by a judge of the Supreme Court.

**Material affected by lien not to be removed**

14. During the continuance of a lien no portion of the property or machinery affected thereby shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the Supreme Court.

**REGISTRATION OF LIEN**

**Registration in land titles office**

15.(1) A claim of lien applicable to the case may be deposited in the land titles office and shall state

- (a) the name and residence of the claimant, of the owner of the property to be charged and of the person for whom and upon whose credit the work is done or materials or machinery furnished, and the time or period within which the same was or was to be done or furnished,
- (b) the work done or material or machinery furnished,
- (c) the sum claimed as due or to become due,
- (d) the description of the property to be charged, and
- (e) the date of expiring of the period of credit agreed to by the lien holder for payment for this work, materials or machinery where credit has been given.

(2) Such claim shall be verified by the affidavit of the claimant or his agent.

**Claim for wages**

16. A claim for wages may include the claims of any number of mechanics, labourers or other persons aforesaid who may choose to unite them; in such case each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim and an affidavit substantially in the prescribed form shall be sufficient.

**Claims to be filed as an encumbrance**

17. The registrar upon payment of the proper fee shall enter and register the claim as an encumbrance against the land or the estate or interest in land therein described as provided in the Land Titles Act (Canada); and the said claim of lien may be described as a mechanic's lien.

**Lienholder a purchaser pro tanto**

18. Where a claim is so deposited the person entitled to the lien shall be deemed a purchaser pro tanto.

**Time for registration of lien for wages**

19.(1) Where the lien is for wages under section 5 or 8, the claims may be registered

- (a) at any time within 30 days after the last day's labour for which the wages are payable, or
- (b) at any time within 30 days after the completion of the construction, alteration or repair of the building or erection or after the erecting or placing of the machinery in or towards which, respectively, the labour was performed and the wages earned but so that the whole period shall not exceed 60 days from the last day's labour aforesaid.

(2) The lien shall not be entitled to the benefit of sections 5 and 8 after the said respective periods unless the same is duly registered before the expiration of the said periods so limited.

(3) The lien shall have the same priority for all purposes after as before registration.

**Time for registration of other liens**

20. In other cases the claim of lien may be deposited before or during the progress of the work or within 30 days from the completion thereof or from the supplying or placing the machinery.

**PROCEEDINGS TO REALIZE LIEN**

**Action to enforce unregistered lien**

21. Every lien that has not been duly deposited under this Act shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime proceedings are instituted to realize the claim under this Act and a certificate thereof, which may be granted by the court in which or judge before whom the proceedings are instituted, is duly filed in the land titles office.

**Action to enforce registered lien**

22. Every lien that has been duly deposited under this Act shall absolutely cease to exist after the expiration of 90 days after the work has been completed or materials or machinery furnished or wages earned or the expiry of the period of credit where such period is mentioned in the claim of lien filed unless in the meantime proceedings are instituted to realize the claim under this Act and a certificate thereof, which may be granted by the court in which or judge before whom the proceedings are instituted, is duly registered in the land titles office.

**Time for action if no period of credit or none stated**

23. If there is no period of credit or if the date of expiry of the period of credit is not stated in the claim so filed the lien shall cease to exist upon the expiration of 90 days after the work has been completed or materials or machinery furnished unless in the meantime proceedings have been instituted pursuant to section 22.

**Lien realizable in Supreme Court**

24. In all cases the lien may be realized in the Supreme Court according to the ordinary procedure of the Supreme Court.

**Joinder of actions and realization of liens**

25.(1) Any number of lienholders may join in one action and any action brought by a lienholder shall be taken to be brought on behalf of all the lienholders of the same class who have registered their liens before or within 30 days after the commencement of the action or who within the said 30 days, file in the court a statement of their respective claims, intituled in or referring to the said action.

(2) In the event of the death of the plaintiff or his refusal or neglect to proceed any other lienholder of the same class who has registered his claim or filed his statement in the manner and within the time above limited for that purpose may be allowed to prosecute and continue the action on such terms as are considered just and reasonable by the Supreme Court.

(3) In case of a sale of the estate and interest charged with the lien the Supreme Court may direct the sale to take place at any time after one month from the recovery of judgment and it shall not be necessary to delay the sale for a longer period than is requisite to give reasonable notice thereof.

(4) The Supreme Court may also direct the sale of any machinery and authorize its removal.

(5) When judgment is given in favour of a lien the Supreme Court may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action.

(6) Where there are several liens under this Act against the same property each class of the lienholders shall, subject to sections 4, 8 and 10, rank *pari passu* for their several amounts against the said property and the proceeds of any sale shall, subject as aforesaid, be distributed amongst such lienholders *pro rata* according to their several classes and rights and they shall respectively be entitled to execution for any balance due to them respectively after said distribution.

(7) Upon application the Supreme Court may receive security or payment into court in lieu of the amount of the claim and may thereupon vacate the registration of the lien.

(8) The Supreme Court may annul the said registration upon any other ground.

(9) In any of the cases mentioned in subsections (7) and (8) the Supreme Court may proceed to hear and determine the matter of the lien and make such order as seems just, and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof or without just cause claims a larger sum than is found by the Supreme Court to be due, the court may order and adjudge him to pay the costs to the other party.

**Death of lienholder and assignment of lien**

26. In the event of the death of a lienholder, his right of lien shall pass to his personal representatives and the right of a lienholder may be assigned by any instrument in writing.

**DISCHARGE OF LIEN**

**Procedure**

27. A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing acknowledging payment and verified by affidavit and filed; such receipt shall be numbered and entered by the registrar like other instruments but need not be copied in any book; the fees shall be the same as for registering a claim of lien.

**Discharge to be at the contractor's cost**

28. When there is a contract for the prosecution of the work as hereinbefore mentioned the registration of all discharges of liens shall be at the cost of the contractor unless the Supreme Court otherwise orders.

**EXECUTION AGAINST PERSON SUPPLYING MATERIAL**

**Exemption**

29. Where any mechanic, artisan, machinist, builder, miner, contractor or any other person has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine at the request of and for some other person, such materials shall not be subject to execution or other process to enforce any debt, other than for the purchase thereof, due by the person furnishing or procuring such materials, and whether the same have or not been in whole or in part worked into or made part of such building or erection.

**LIENS FOR IMPROVEMENT OF CHATTELS**

**Enforcement**

30.(1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists but not afterwards in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law to sell the chattel or thing in respect of which the lien exists on giving one month's notice by advertisement in a newspaper published in the locality in which the work was done, or in case there is no newspaper published in such locality or within ten miles of the place where the work was done, then by posting up not less than five notices in the most public places within the locality for one month, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the residence or last known place of residence, if any, of the owner as the case may be or by mailing the same to him by registered letter if his address is known.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due him and the cost of advertising and sale and shall upon application pay over any surplus to the person entitled thereto.

**GENERAL**

**Regulations**

31. The Commissioner in Executive Council may make regulations prescribing the forms to be used for the purposes of this Act.

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# **CHAPTER 113**

## **MEDIATION BOARD ACT**

### **Interpretation**

#### **1. In this Act,**

“board” means the mediation board appointed under the authority of this Act;

“collector” means

- (a) in respect of areas not within a municipality, the Executive Council Member, and
- (b) in respect of a municipality, the treasurer of the municipality;

“registrar” means the registrar of land titles for the Yukon land registration district;

“taxing authority” means

- (a) in respect of real property outside of a municipality, the Executive Council Member, and
- (b) in respect of real property in a municipality, the council of the municipality.

### **Board**

2.(1) There shall be a board, to be called the mediation board, consisting of one or more members as may be determined by the Commissioner in Executive Council.

(2) The Commissioner in Executive Council shall appoint the member or members of the board and specify the number of members that shall constitute a quorum.

(3) Each member shall hold office during pleasure, shall receive such remuneration as is approved by the Commissioner in Executive Council and shall perform such duties, in addition to the duties assigned by this Act, as may be prescribed.

(4) Vacancies caused by death, resignation or otherwise may be filled by the Commissioner in Executive Council, but a vacancy shall not impair the power of the remaining members or member to act, and in any such case, the signature of one member shall be sufficient.

(5) In the absence of a member of the board or his inability to act, or in the case of a vacancy in the office, the remaining members or member shall exercise the powers of the board.

(6) The Commissioner in Executive Council shall designate one of the members of the board to be chairperson, and if there is only one member, he shall be deemed to be chairperson.

(7) In the absence of the chairperson, all orders, rules, regulations and other documents may be signed by any member, and when so signed shall have the like effect as if signed by the chairperson.

(8) When it appears that a member other than the chairperson has acted for and in the place of the chairperson, it shall be conclusively presumed that he has so acted in the absence or disability of the chairperson.

(9) If there is only one member of the board, the Commissioner in Executive Council may appoint some person to take the place of that member when absent for any cause, and the person so appointed shall, while acting, possess all the powers, exercise all the functions and perform all the duties of the board, and subsection (7) applies to him accordingly.

**Duties**

3. The board shall perform such duties as may be assigned to it by the Commissioner in Executive Council.

**Delegation of powers**

4.(1) The Commissioner in Executive Council may appoint such person or persons to act at such places in the Yukon as he deems advisable for the purpose of facilitating the administration of this Act and may confer upon persons so appointed, and upon any member or members of the board, such powers as he deems expedient, including power to make orders that the board is authorized to make.

(2) All orders made pursuant to such powers by any appointee or appointees pursuant to subsection (1) or by any member or members of the board whether acting alone or with any other person or persons, shall have the same force and effect as if made by the board.

**Consent required for proceedings for title to land**

5.(1) No proceedings shall be taken to obtain title to land under subsections 105(4) to (9) of the Assessment and Taxation Act, except with the prior written consent of the board given after the expiration of the period of six months mentioned in subsection 105(4) of that Act.

(2) Where, after the board has under subsection (1) consented to the taking of proceedings in respect of the land described in the consent, the board makes an order under subsection 8(1) prohibiting the making or continuation of final application for title to the land and a memorandum of the order is pursuant to section 9 made on the certificate of title to the land, on proceedings respecting final application for title to the land shall be taken or continued except with the further written consent of the board.

**Power to impose conditions on municipality**

6.(1) The board may, as a condition precedent to giving its consent under subsection 5(1) or (2), require that the taking authority which has requested the consent enter into an agreement for sale, lease option agreement or other agreement with the assessed owner of the land, or with any person designated by the board who has a legal or equitable interest in the land, such agreement to be on terms approved by the board and to take effect upon the issue of a certificate of title to the authority under subsection 105(4) of the Assessment and Taxation Act.

(2) Where an agreement approved by the board is entered into pursuant to a requirement of the board under subsection (1), the taxing authority shall not, in respect of the land affected by the agreement, thereafter be bound by the restrictive provisions of section 114 of the Assessment and Taxation Act.

**Relief for municipality**

7. Where the board has given its consent under subsection 5(1) or (2) without requiring the taxing authority to enter into an agreement under section 6, the board may at the request of the taxing authority, by order made either before or after a certificate of title to the land affected by the consent is issued under subsection 105(4) of the Assessment and Taxation Act, relieve the taxing authority in respect of that land, from the restrictive provisions of section 114 of the Assessment and Taxation Act on the condition that the taxing authority will enter into an agreement for sale, lease option agreement or other agreement, on terms approved by the board, with the assessed owner of the land, or with the person who was the assessed owner immediately before the issue of the certificate of title, or with any other person named in the order who then has, or who immediately before the issue of the certificate of title had, a legal or equitable interest in the land.

**Power to postpone final application for title**

8.(1) The board may from time to time, of its own motion or upon the request of a person entitled under section 98 or 99 of the Assessment and Taxation Act to redeem land, by order prohibit the making or continuation of final application for title to the land until after a date to be stated in the order.

(2) Where a request is made by a person entitled to redeem land for an order under subsection (1), the board may, as a condition precedent to making the order, require payment by that person to the collector of such portion of the amount required to redeem the land as the board deems proper.

**Recording of consents and orders**

9. Immediately after a consent is given under subsection 5(1) or (2) or an order is made under subsection 8(1), the board shall cause a copy of the consent or order to be forwarded to the registrar, and upon receipt thereof the registrar shall make a memorandum of the consent or order upon the certificate of title to the land affected.

**Effect of consents and certain orders**

10. Where a consent is given under subsection 5(1) or (2) and there is then in force an order made under section 8 that applies to the land described in the consent, that order shall, insofar as it applies to the land described in the consent, be deemed to have been rescinded.

**Inquiries**

11. The board may make such inquiries as it deems necessary with respect to any matter within its jurisdiction under this Act or any other Act, and for the purpose of conducting an inquiry, the board shall have all the powers of a judge of the Supreme Court.

**Evidence of service**

12. Proof that any letter or package containing any document was sent by registered mail by the board or a person appointed under section 4, the time of sending of, and of the time required for delivery in the ordinary course of post is evidence of the fact and time of receipt of the letter or package by the person to whom it was addressed.

**Evidence of documents**

13. All documents purporting to be issued by the board or a person appointed under section 4, pursuant to the Act, shall be received in evidence and shall be deemed to have been so issued unless the contrary is shown.

**Limitation of liability**

14. The board, members of the board, persons appointed under section 4 and persons acting under its or his instructions, or under the authority of this Act or any regulations thereunder, shall not be personally liable for any loss or damage suffered by any person by reason of any thing in good faith done, or omitted to be done, pursuant to or in the exercise or supposed exercise of the powers conferred by this Act or the regulations.

**Conflict of interest**

15. Except as provided by section 14, any member of the board or person appointed under section 4 who or whose spouse or minor child is interested in any property and who fails to declare that interest to the board at the time when the property first becomes subject to the jurisdiction of the board or when that interest becomes known to him, whichever is the earlier, commits an offence and is liable upon summary conviction to a fine not exceeding \$1,000 and in default of payment to a term of imprisonment not exceeding six months, or to both fine and imprisonment and forfeits any immunity pursuant to section 14.

**Penalty**

16. If a person makes wilful default in complying with an order, direction or condition made, given or imposed by the board under the authority of this Act or any other Act or by a person appointed under section 4, or violates any of the provisions of this Act or the regulations, he is guilty of an offence and liable on summary conviction to a fine not exceeding \$250 and in default of payment, to a term of imprisonment not exceeding three months, or to both fine and imprisonment.

**Regulations**

17. The Commissioner in Executive Council may make such regulations and prescribe such forms as he deems necessary for carrying out the purposes and provisions of this Act.

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# CHAPTER 114

## MEDICAL PROFESSION ACT

### Interpretation

#### 1. In this Act,

- “council” means the Yukon Medical Council established pursuant to section 2;
- “lay person” means a person not registered pursuant to this Act;
- “licence” means a valid and subsisting licence issued to a person registered under this Act authorizing that person to practice medicine;
- “medical practitioner” means a person who engages in the practice of medicine;
- “medical specialist” means a member of the medical profession who is in possession of a valid and subsisting fellowship or specialist certificate granted by the Royal College of Physicians and Surgeons of Canada;
- “member of the medical profession” means a person registered pursuant to this Act or pursuant to any enactment of any province respecting the regulation of the professional activities of persons who practise medicine in that province;
- “practise medicine” shall have the meaning accorded the term pursuant to subsection 37(2);
- “practice of medicine” includes the practice of surgery, obstetrics, gynaecology and paediatrics;
- “professional corporation” means a company, as defined in the Companies Act, through which a medical practitioner is permitted under the terms of this Act to practise medicine;
- “registrar” means the registrar of medical practitioners appointed pursuant to section 8;
- “resident” means to have resided in the Yukon for 183 days or more in any one calendar year;
- “Yukon Medical Association” means the voluntary association of members of the medical profession in the Yukon registered under the Societies Act.

### YUKON MEDICAL COUNCIL

### Membership

2.(1) There is hereby established a medical council of the Yukon, to be known and styled as the Yukon Medical Council, consisting of the six persons appointed by the Commissioner in Executive Council pursuant to subsection (2).

(2) The Commissioner in Executive Council may appoint

- (a) three members of the medical profession who are
  - (i) nominated by the Yukon Medical Association,
  - (ii) resident in the Yukon, and
  - (iii) registered pursuant to this Act,to serve as members and hold office during pleasure, for a term of three years,
- (b) in consultation with the Yukon Medical Association, one member of the medical profession who may be resident outside the Yukon and who may or may not be registered pursuant to this Act, to serve as a member and hold office during pleasure, a term of three years, and

- (c) two lay persons who are resident in the Yukon, to serve as members and hold office during pleasure for a term of three years.

(3) Notwithstanding the term of office set out for each member of the council under subsection (2), an existing member of the council may continue to hold office until such time as a new appointment is made thereby replacing him.

(4) Retiring members of the council are eligible for reappointment for a further term of office if otherwise qualified pursuant to this Act.

(5) A member of the council shall cease to hold office

- (a) if he resigns by notice in writing,
- (b) if he ceases to be registered pursuant to this Act or if he ceases to reside in the Yukon, in the case of those members appointed from the medical profession who are resident in the Yukon, or
- (c) if he is absent, except by permission of the council, for more than four consecutive meetings of the council.

(6) A member of the council shall absent himself from council proceedings

- (a) while he is the subject of an inquiry under the provisions of this Act, or
- (b) while he has a conflict of interest, as the council by majority decision may determine.

(7) Notwithstanding any vacancy of office occurring by reason of the resignation, removal or death of any member of the council, the remaining members of council may continue to exercise all of the powers and duties vested in the council pursuant to this Act.

(8) Where any vacancy of office occurs, a member of the council appointed in replacement of the members so creating the vacancy shall, notwithstanding subsection (3), accrue only for the balance of the unexpired term of office the member so replaced, but is eligible for reappointment for a further term of office if otherwise qualified pursuant to this Act.

**Chairperson**

3.(1) The Commissioner in Executive Council shall appoint any member of the council who is a member of the medical profession resident in the Yukon to serve at pleasure as chairperson of the council.

(2) The council shall, at its first meeting in each calendar year, elect from its membership a vice-chairperson to serve for the remainder of that year.

(3) The chairperson and the vice-chairperson of the council are eligible for reappointment as such in any year subsequent to their initial appointment.

(4) The chairperson shall preside at all meetings of the council, but, in his absence, the vice-chairperson may preside in his place.

(5) The council may, in the absence of the chairperson and the vice-chairperson from any meeting of the council, appoint a member to act as chairperson for that meeting.

(6) Minutes of each meeting of the council shall be recorded in such manner as the chairperson may determine, and a copy thereof, signed by the chairperson following approval by a majority of the members of the council, shall be transmitted to the registrar.

(7) The chairperson in addition to any powers or duties given or imposed by this Act, may perform such duties and have such powers as are from time to time delegated to him by the council.

**Quorum and decisions**

4.(1) A majority of the members of the council constitutes a quorum and, subject to subsection (2), all decisions of the council shall be by resolution passed by a majority vote cast at a regularly convened meeting of the council of which five days notice has been given to each member.

(2) Where a regularly convened meeting of the members of the council has not occurred, any resolution

- (a) signed by all of the members of council, or
- (b) orally assented to by a majority of the members of the council and confirmed at the next regularly convened meeting,

has the same force and effect as a resolution duly passed by a majority vote cast at a regularly convened meeting of the council.

(3) If a member of the council attends a meeting of the council, the fact that he did not receive at least five days notice thereof does not invalidate the meeting or any resolution passed thereat.

(4) The chairperson of any meeting of the council may vote as any other member of council.

**Committees**

5.(1) The council may appoint committees and may, for the purpose of enabling any committee to perform any function as may be assigned, delegate any or all of the powers or duties of the council as from time to time it sees fit.

(2) The chairperson is ex officio a member of all committees.

**Remuneration**

6. Members of the council may be paid, out of the Yukon Consolidated Revenue Fund,

- (a) such reasonable fees for attendance at meetings of the council, and
- (b) such necessary expenses,

as may from time to time be prescribed.

**Powers of the council**

7.(1) The council shall have such powers and perform such duties as are given or imposed by this Act with respect to the regulation of the professional activities of those persons who practise medicine in the Yukon, and, to that end, shall from time to time recommend to the Executive Council Member the making of such regulations as are necessary and expedient for the carrying out of the spirit and intent of this Act and as are not in conflict therewith.

(2) For the purposes of subsection (1), and without limiting the generality thereof, the council shall make recommendations respecting such matters as are specifically enumerated in paragraphs 61(a) to (k).

## **REGISTRATION**

### **Registrar of medical practitioners**

**8.(1)** The Commissioner in Executive Council shall appoint a member of the public service as the registrar of medical practitioners in the Yukon.

(2) The registrar may attend any meeting of the council, but in no event shall the registrar be considered a member of the council for any purpose.

(3) The registrar, in addition to any powers or duties given or imposed by this Act, may perform such duties and have such powers as are from time to time delegated to him by the council.

### **Yukon medical register**

**9.(1)** There shall be kept by the registrar a register, to be known as the Yukon medical register, in which shall be entered the name, address, qualifications and such other particulars as may be prescribed, of every person to be registered pursuant to this section as a person authorized to practise medicine in the Yukon.

(2) The council shall cause the registrar to enter upon the Yukon medical register the name, address, qualifications and such other particulars as may be prescribed, of any person who

- (a) makes application to the council for such entry upon the Yukon medical register,
- (b) produces a diploma of qualification issued to him by a university, college or medical school that is recognized by and acceptable to the Executive Council Member acting on the recommendation of the council,
- (c) is a licentiate of the Medical Council of Canada,
- (d) has successfully completed a minimum of 12 months of internship, consisting of training in medicine, surgery, obstetrics and gynaecology, and paediatrics in a hospital recognized by and acceptable to the Executive Council Member acting on the recommendation of the council,
- (e) satisfies the requirements of section 13,
- (f) is examined by the council and satisfies the members as to his general fitness and capacity to engage in the practice of medicine, and
- (g) pays the prescribed fee or fees fixed in respect of such registration.

(3) For the purposes of this section, internship is a period of supervised clinical training, taken after the undergraduate years in a hospital recognized by and acceptable to the Executive Council Member acting on the recommendation of the council, but does not include clinical training taken before the granting of, or eligibility for, a basic medical degree.



(4) In the case of a graduate in medicine from a medical school of a country other than Canada the council, may require as a qualification in addition to those set out in subsection (2) that the applicant successfully complete not more than one year of post graduate training comprised of such period of training in medicine, surgery, obstetrics and gynaecology or paediatrics as the council may direct.

### **Temporary register**

**10.(1)** There shall be kept by the registrar a register, to be known as the temporary register, in which shall be entered the name, address, qualifications, terms and conditions of temporary registration and such other particulars as may be prescribed, of every person to be registered pursuant to this section as a person authorized to practise medicine temporarily in the Yukon.

(2) The council may cause the registrar to enter upon the temporary register the name, address, qualifications, terms and conditions of temporary registration and such other particulars as may be prescribed, of any person who, upon application to the council for such entry upon the temporary register and following payment of the prescribed fee or fees fixed in respect of such registration

- (a) is a member of Her Majesty's Forces and is engaged in the practice of medicine, or
- (b) is enrolled as an undergraduate or graduate registered in a school of medicine recognized by and acceptable to the Executive Council Member acting on the recommendation of the council and whose registration under this section is recommended by the dean of medicine of that school for the purposes of education in the Yukon.

(3) Every person who applies for registration pursuant to subsection (2) shall satisfy the requirements of section 13.

(4) A person registered in the temporary register shall be deemed to be registered under this Act as though his name were entered in the Yukon medical register and he is, for the period of his temporary registration, subject to the terms and conditions set out on his certificate and the temporary register and subject to the obligations and entitled to all the rights and privileges of a person authorized to practise medicine in the Yukon pursuant to this Act.

(5) A person registered in the temporary register who is an undergraduate student in a school of medicine approved by the council shall be under the supervision of a medical practitioner who is entered in the Yukon medical register or limited register pursuant to this Act.

(6) The registrar shall issue to each person whose name is entered upon the temporary register a certificate to be known as a temporary certificate, which shall state on its face the terms and conditions, if any, of the registration of that person and the period of time for which the temporary certificate is valid.

**Limited register**

11.(1) There shall be kept by the registrar a register to be known as the limited register, in which shall be entered the name, address, qualifications, terms and conditions of limited registration and such other particulars as may be prescribed, of every person to be registered pursuant to this section as a person authorized to carry on a limited practice of medicine in the Yukon.

(2) The council shall cause the registrar to enter upon the limited register the name, address, qualifications, terms and conditions of limited registration and such other particulars as may be prescribed, of any person who, upon application to the council for such entry upon the limited register and following payment of the prescribed fee or fees fixed in respect of such registration, is in possession of a fellowship or certificate granted by the Royal College of Physicians and Surgeons of Canada, and is in good standing with such College.

(3) Every person who applies for registration pursuant to subsection (2) shall satisfy the requirements of section 13.

(4) It shall be a condition of registration under this section that the person so registered shall confine his practice of medicine to the particular field of medicine with respect to which his registration is granted and the council may attach such further conditions as it sees fit to any registration under this section.

(5) A person registered in the limited register shall be deemed to be registered under this Act as though his name were entered in the Yukon medical register, and he is subject to the obligations and entitled to all the rights and privileges of a person authorized to practise medicine in the Yukon pursuant to this Act and to the conditions imposed upon his registration under this section.

(6) The registrar shall issue to each person whose name is entered upon the limited register a certificate, to be known as a limited certificate, which shall state on its face the terms and conditions of the registration of that person and the period of time for which the limited certificate is valid.

**Corporation register**

12.(1) There shall be kept by the registrar a register, to be known as the corporation register, in which shall be entered the corporate name and address and the name, address and such other particulars as may be prescribed, of every person who is incorporated pursuant to section 49 for the purpose of carrying on the practice of medicine in the Yukon.

(2) Where, in the opinion of the council, any person incorporated pursuant to section 49 for the purpose of carrying on the practice of medicine in the Yukon has reason to confine his practice of medicine to a particular field of medicine, the name, address and such other particulars as may be prescribed shall be entered upon the limited register in addition to being entered in the corporation register.

**Registration requirements**

13.(1) Every person requesting the entry of his name in the Yukon medical register, the temporary register or the limited register, and every person who applies for incorporation pursuant to section 49, shall submit to the council in such form as may be prescribed such supporting documentation and evidence as shall satisfy the council

- (a) that he is legally entitled to reside in Canada,
- (b) that he is the person to whom the documents of qualification tendered in respect of an application apply,
- (c) that he is reasonably able to converse, read and write in one of the official languages of Canada,
- (d) that he is in good standing with the medical profession of any jurisdiction where he as previously practised medicine, and
- (e) that he is not subject to criminal charges pending within Canada.

(2) If the council is dissatisfied with the documentation or evidence adduced by a person applying to be registered, the council may refuse to cause the registrar to enter the name of the applicant for registration until the applicant has furnished proper documentation or evidence to the satisfaction of the council.

(3) Every person registered under this Act who obtains any degree recognized by the council other than the degree in respect of which he has been registered, may, subject to subsection (4), have such change entered in the Yukon medical register, temporary register, limited register or corporation register in substitution for or in addition to the degree previously registered, on the payment of such fee as may be prescribed.

(4) No degree recognized by the council shall be entered on the Yukon medical register, temporary register, limited register or corporation register, either on the first registration or by way of substitution for or in addition thereto, unless the registrar is satisfied that the person requesting the entry is the person to whom the degree was granted.

**Keeping of registers**

14.(1) The registrar shall keep the Yukon medical register, the temporary register, limited register and corporation register in accordance with this Act and the regulations thereunder.

(2) The Yukon medical register, temporary register, limited register and corporation register shall, at all times that the office of the registrar is open, be open to inspection by any person, and any person may, upon the payment of the prescribed fee, inspect the same or obtain a certificate under the hand of the registrar to the effect that the medical practitioner therein named was, or was not, registered as a medical practitioner in the Yukon or was or was not suspended from the practice of medicine on the date or dates specified in the certificate.

(3) The registrar shall cause to be published annually a correct list of the names of all persons appearing on the Yukon medical register, temporary register, limited register and corporation register on the date of publication and who have not been suspended from practice, in alphabetical order according to their surnames, with their respective addresses, and showing the medical titles, diplomas, degrees and qualifications conferred by any college or body, and the dates thereof, as shown upon the register, together with the date on which each person whose name appears in the Yukon medical register, temporary register, limited register or corporation register was entered therein.

**Licence to practise**

**15.(1)** The registrar shall issue to every person whose name is entered in the Yukon medical register, the temporary register or the limited register, and who is not suspended from the practice of medicine, a licence authorizing the person to whom it is issued to practise medicine in the Yukon subject to the terms and conditions, if any, imposed upon that person pursuant to section 10 or 11.

(2) Every person who has a licence issued pursuant to subsection (1) is, subject to sections 10 and 11, entitled to practise medicine as a member of the medical profession in the Yukon, and to demand and recover in any court of law, with full costs of suit, reasonable charges for professional aid, advice and visits, and the cost of any medicine or other medical appliances rendered or supplied by him to any person.

**Evidence**

**16.(1)** In any proceedings under this Act, or for breach thereof, the burden of proof as to registration and right to practise medicine under this Act is upon the person charged.

(2) Subject to subsection (3), a copy of the list purporting to be published by the registrar pursuant to section 14 is prima facie proof in all courts in the Yukon, and before all justices and on all other occasions, that the persons therein named are registered and entitled to practise medicine in the Yukon pursuant to this Act, that they have not been suspended from the practice of medicine and that no person, other than those specified in the list, is registered or entitled to practise medicine in the Yukon pursuant to the provisions of this Act.

(3) Notwithstanding subsection (2), in the case of any person whose name does not appear in the copy of the list referred to in subsection (2), a licence issued pursuant to section 15 is prima facie proof that such person was, at the date of the issue of the licence, registered pursuant to the provisions of this Act and entitled to practise medicine without further proof of the signature of the registrar.

**Annual fee**

**17.(1)** Subject to subsection (2), each person registered pursuant to the provisions of this Act shall pay to the registrar such annual fee as may be prescribed.

(2) The Executive Council Member may, on the recommendation of the council, exempt any person registered pursuant to the provisions of this Act from the payment of the annual fee prescribed pursuant to subsection (1).

(3) The annual fee is payable on or before March 31 in the calendar year for which the same is imposed, and not later than February 15 in each year, the registrar shall send to every person registered pursuant to the provisions of this Act notice of the amount and due date of the annual fee, and the notice shall include a copy of subsection (6).

(4) Every person registered pursuant to the provisions of this Act shall, upon payment of the annual fee or exemption therefrom, be issued a certificate under the hand of the registrar, stating his qualification to practise medicine and that, subject to the provisions of this Act, the certificate is in force until March 31 in the calendar year in which the certificate expires.

(5) The annual fee shall, subject to subsection (2), be paid by every person registered pursuant to this Act whether he is resident in the Yukon or not, or whether he is practising or not, but special fees for non-practising or non-resident members may be prescribed therefor.

(6) Every person required to pay an annual fee pursuant to subsection (1) who fails to pay such fee on or before March 31 ceases to be in good standing with the profession and thereupon stands suspended from the practice of medicine in the Yukon until he pays all annual fees in arrears and, in addition, pays the prescribed penalty.

(7) Notwithstanding that the annual fees in arrears and the penalty referred to in subsection (6) are paid, the council may require the person so paying to pass before the council for an interview.

(8) The council may cause the registrar to refuse to remove the suspension against the name of any person who, in its opinion, is guilty of conduct for which, had that person not been under suspension, his registration could have been struck or he could have been suspended from the practice of medicine.

(9) The registrar shall forthwith notify any person who has been suspended from the practice of medicine under this section.

#### **Voluntary strike off**

18. Unless the council disapproves, a member of the medical profession may, at his own request in writing, have his name struck from the Yukon medical register, the temporary register or the limited register, and shall thereupon surrender up to the registrar any subsisting licence or certificate issued to him under this Act.

### **PROFESSIONAL CONDUCT, DISCIPLINE AND OFFENCES**

#### **Strike off by the council**

19.(1) The council may cause to be struck from the Yukon medical register, the temporary register, the limited register or the corporation register any name or other particular pertaining thereto, of any person who

- (a) has, in the opinion of the council, obtained by fraud, misrepresentation, or error the registration of his name or other particulars pertaining thereto, or
- (b) has failed to maintain any qualification required of him upon registration in the particular register in which his name or other particulars pertaining thereto are registered.

(2) If a person suspended from the practice of medicine under section 17 has not paid his annual fee and penalty by December 31 of the calendar year in which it is due, the registrar shall strike his name from the register in which it is entered.

(3) The registrar shall forthwith notify, in writing, any person whose name has been struck from a register under this section or in respect of whom any entry has been struck, but such person may at any time apply to have his name or such entry restored, and the council may, in its discretion, restore or refuse to restore any name or entry so struck from the register.

(4) The council may require any person whose name has been struck from the Yukon medical register, the temporary register or the limited register pursuant to section 18 or this section to pass an examination before he is again entitled to be registered.

**Return to the Yukon**

20.(1) If a member of the medical profession practising medicine in the Yukon leaves the Yukon and practises medicine during his absence, he shall not resume the practice of medicine in the Yukon until he provides the registrar with a certificate of good standing, in form and content satisfactory to the registrar, from every place in which he has practised medicine during his absence from the Yukon and further satisfies the registrar that he is not the subject of an inquiry into his ability to practise medicine and that he is not subject to criminal charges pending within Canada.

(2) The council may waive the requirements of subsection (1) at their pleasure.

**Indictable offences**

21.(1) Subject to subsection (2) or (3), no person who has been convicted of an indictable offence by any court of justice in Canada or elsewhere is entitled to be registered, and the council may cause to be struck from the Yukon medical register, the temporary register, the limited register or the corporation register the name of any member of the medical profession who has been convicted of an indictable offence by any court of justice in Canada or elsewhere.

(2) Notwithstanding subsection (1), the council may, if it sees fit, permit a person who has been so convicted to become or remain a member of the medical profession in the Yukon or may restore the name of any person whose name has been struck under this section.

(3) The registration of a person shall not be refused and the name of a person shall not be struck under this section on account of a conviction for a political offence, or on account of a conviction for an offence that ought not, in the opinion of the council, either from the nature of the offence or from the circumstances under which it was committed, disqualify a person from carrying on the practice of medicine pursuant to this Act.

**Investigations**

22.(1) The council, or any person as may be appointed for the purposes of this section by the council, may

- (a) investigate whether or not a member of the medical profession practising medicine in the Yukon is bringing to his practice such skill and knowledge as is considered adequate according to generally accepted standards of the medical profession in the Yukon, and
- (b) require such member to undergo such examinations as the council considers, for the purposes of the investigation, appropriate.

(2) Where an investigation or examination is carried out under subsection (1), the investigator shall submit, forthwith after the investigation or examination is completed, a written report to the council.

(3) The council shall serve on the member of the medical profession concerned in such an investigation a copy of the report and a notice of the time and place where the report will be considered by the council.

(4) Where a report is submitted to the council under this section, it may, after giving the member of the medical profession concerned a reasonable opportunity to answer any matter contained in the report, determine that the member should not be permitted to practise medicine or that his practice of medicine should be restricted, and may act in accordance with subsection 24(3).

### **Inquiry**

**23.(1)** The council may, on its own motion, or shall, where requested in writing to do so by

- (a) any three members of the medical profession, or
- (b) any member of the public, upon production of proof satisfactory to the council,

cause an inquiry to be made by an inquiry committee into any charge or complaint made, in any form or manner whatsoever, against any member of the medical profession practising medicine in the Yukon, or into a question concerning the conduct or mental condition or capability or fitness to practise medicine of any such member.

(2) Where an inquiry is to be made pursuant to subsection (1), the council may cause the member of the medical profession so charged or complained against to be suspended from the practice of medicine in the Yukon until such time as the results of the inquiry are made known to the council by the inquiry committee pursuant to subsection 24(1).

(3) The council, in causing an inquiry to be made under this section, shall appoint an inquiry committee of not fewer than three members of the medical profession.

(4) If in the opinion of the council the charge, complaint or question to be inquired into appears to concern the mental or emotional condition of a member of the medical profession, the inquiry committee shall, in addition to the requirements of subsection (3), include at least one psychiatrist as a member.

(5) Notwithstanding anything contained in this section or section 24, the council may cause the conduct of a member of the medical profession practising in the Yukon to be summarily investigated by an investigator appointed pursuant to section 29, with a view to determining whether or not a complaint is frivolous or appears to be sufficiently serious to justify the appointment of an inquiry committee under this section.

(6) Where a charge or complaint is found by the investigator not to be frivolous, but not sufficiently serious to justify the appointment of an inquiry committee, the council may, upon hearing the member of the medical profession so charged or complained against, reprimand such member.

**Report of inquiry committee and action by council**

24.(1) An inquiry committee shall find the facts of the matter to be inquired into and, in addition, shall find whether the charge or complaint has been proven, and shall report its findings to the council in writing as soon as practicable.

(2) At any time after it has commenced taking the evidence respecting a charge or complaint, the inquiry committee may of its own motion suspend from practice the member of the medical profession whose conduct is under inquiry until the next meeting of the council and shall promptly give written notice of the suspension to such member and the registrar.

(3) If the council, upon a report made under subsection (1), considers that a member of the medical profession practising medicine in the Yukon has been guilty of infamous or unprofessional conduct or that such member is suffering from a mental ailment, emotional disturbance, or addiction to alcohol or drugs that might, if such member continues to practice medicine constitute a danger to the public, the council may

- (a) cause the name of such member to be struck from the Yukon medical register, the temporary register, the limited register or the corporation register,
- (b) suspend such member from the practice of medicine for such period as may be prescribed by the council,
- (c) cause the name of such member to be struck from the Yukon medical register, the limited register or the corporation register, as the case may be, and direct the registration of such member in the temporary register be subject to whatever terms and conditions the council may prescribe.
- (d) impose upon such member a fine, not to exceed the sum of \$10,000, to be paid into the Yukon Consolidated Revenue Fund within such time as the council may prescribe,
- (e) reprimand such member, or
- (f) suspend the imposition of punishment and place such member on probation upon whatever terms and conditions the council may prescribe.

(4) The fine provided for in paragraph (3)(d) may be imposed in lieu of or in addition to any imposition of punishment under paragraph (3) (b), (c), (e) or (f).

(5) If a charge or complaint, or allegations of a breach of a term of probation, is made against a member of the medical profession who is on probation under subsection (3), the council may inquire into the matter in a summary manner and, upon proof thereof to the satisfaction of the council, terminate the probation and impose another punishment or penalty under subsection (3).

(6) A fine imposed upon a member of the medical profession under subsection (3) is a debt due by such member to the Government of the Yukon, and if it is not paid within the time for payment fixed by the council, that member is deemed suspended from the practice of medicine until the fine is paid.

(7) Where a charge or complaint, or allegation of a breach of a term of probation, made against a member of the medical profession is, in the opinion of the council, unfounded or without sufficient evidence to substantiate the charge, complaint or allegation, the council may summarily dismiss the charge, complaint or allegation without any further action on the part of the council.



**Effect of suspension**

25.(1) During the period of suspension of a member of the medical profession pursuant to section 23 or 24 from the practice of medicine, such member shall not, unless the council otherwise directs,

- (a) continue to practise medicine in the Yukon,
- (b) maintain an office, clinic or other premises or display his name or any sign for any purpose relating to the practice of medicine,
- (c) continue or enter into any arrangements with another member of the medical profession with respect to the practice of medicine, or
- (d) employ a locum tenens.

(2) Notwithstanding paragraph (1) (d), a medical practitioner suspended from the practice of medicine by reason of mental condition, alcohol or drugs may, for the duration of his suspension, employ a locum tenens as the council, in its discretion, may direct.

(3) Nothing in this section shall prevent a member of the medical profession under suspension from referring patients to another member in good standing.

(4) If the inquiry committee appointed pursuant to section 23 reports that the applicant is fit to practise medicine without restriction, any suspension shall terminate on the date the report is received by council.

**Re-entry on register**

26.(1) Where the council directs the striking from the Yukon medical register, the temporary register, the limited register or the corporation register of the name of any person or of any other entry, the name of that person or that entry shall not be again entered on the Yukon medical register, the temporary register, the limited register or the corporation register except by the direction of the council, or by the order of the Supreme Court on an appeal as provided in section 33.

(2) Where the council thinks fit in any case, it may direct the registrar to restore to the Yukon medical register, the temporary register, the limited register or the corporation register any name or entry struck therefrom, either with or without the payment of a registration fee, and the registrar shall restore the same accordingly.

**Malpractice to be reported**

27.(1) Every member of the medical profession registered under this Act shall report to the registrar the condition of any other member of the medical profession registered under this Act whom he, on reasonable and probable grounds, believes to be suffering from a physical or mental ailment or emotional disturbance or addiction to alcohol or drugs that, in his opinion, if the other member is permitted to continue to practise medicine, might constitute a danger to the public or be contrary to the public interest.

(2) Upon receipt of any report pursuant to subsection (1), the registrar shall promptly report the matter to the council, and the council may suspend from the practice of medicine the person so reported upon and shall promptly appoint an inquiry committee pursuant to section 23 to investigate the matter and to report its findings to the council.

(3) An inquiry committee appointed pursuant to subsection (2) shall promptly examine the member of the medical profession so reported upon if he can be found within the Yukon, and consider such other evidence as it sees fit.

(4) If the report of the inquiry committee appointed pursuant to subsection (2) is not to the effect that the person reported upon is fit to practise medicine, the council may suspend from such practise the person reported upon or, if the person has previously been suspended, continue his suspension.

#### **Application for inquiry committee**

28.(1) Upon the application of a person suspended under subsection 27(2) or (4), and upon the application being supported by three members of the medical profession, the council shall promptly appoint an inquiry committee consisting of such members of the medical profession and of the council as were not previously members of the inquiry committee first established, in accordance with section 23, which shall re-examine the applicant as soon as may be possible and consider such other evidence as it sees fit.

(2) Any inquiry committee appointed pursuant to subsection (1) shall report its findings and recommendations in writing to the council.

(3) If the inquiry committee appointed pursuant to subsection (1) reports that the applicant is fit to practise medicine without restriction, the suspension shall terminate on the date the report is received by the council.

(4) If the inquiry committee appointed pursuant to subsection (1) is of the opinion that the applicant is fit to practise medicine under certain restrictions, the council may make an order accordingly under paragraph 24(3)(f).

#### **Appointment of investigator**

29.(1) Where it is inexpedient to appoint an inquiry committee because of insufficient information about the matter of possible inquiry, the council may appoint a person as an investigator to obtain information about the matter.

(2) An investigator appointed under subsection (1) has, *mutatis mutandis*, the powers and privileges that are conferred upon an inquiry committee by this Act with respect to ascertaining the facts of the matter to be inquired into and shall, in writing, report his findings to the council upon completion of his investigation, but in no event shall the investigator find as to whether the charge or complaint has been proven.

(3) The written report of an investigator appointed under subsection (1) may be acted upon by the council as to the facts therein stated for the purpose of exercising its powers under sections 23 to 28.

#### **Employment of assistance**

30. Subject to the approval of the Executive Council Member, the council or inquiry committee may employ, at the expense of the Government of the Yukon, such legal or other assistance as it may think necessary or proper, and the complainant and the person whose conduct is the subject of inquiry may be represented by counsel and may submit evidence.

**Notice of hearing**

31.(1) At least two weeks before the first meeting of any inquiry committee convened pursuant to this Act to be held for taking evidence or otherwise ascertaining the facts, a notice shall be served upon the complainant, if any, and upon the person against whom the charge or complaint has been made or whose conduct is the subject of the inquiry.

(2) The notice referred to in subsection (1) shall embody a copy of the charge made against any person, or a statement of the subject matter of the inquiry, and shall also specify the time and place of the meeting of the inquiry committee.

(3) In the event of the non-attendance of the complainant or the person against whom the charge or complaint has been made or whose conduct is the subject of inquiry, the committee may, upon proof of personal service of notice under subsection (1), proceed with the subject matter of the inquiry in the absence of either of those persons and make its report without further notice to such persons.

(4) Proof of service of the notice referred to in subsection (1) for the purposes of this section may be made by statutory declaration.

**Inquiry procedure**

32.(1) An inquiry committee convened pursuant to this Act may make such rules of procedure respecting the conduct of the inquiry as it deems necessary and, without limiting the generality of the foregoing, shall have the power

- (a) to summon and bring before it any person whose attendance it considers necessary to enable it properly to inquire into the matter complained of,
- (b) to swear and examine all persons under oath or by affirmation,
- (c) to compel the production of documents,
- (d) to do all things necessary to provide a full and proper inquiry,
- (e) to receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it sees fit, whether admissible in a court of law or not, and to refuse to accept any evidence that is not presented in the form or at the time required,
- (f) to make or cause to be made such examination of records and such inquiries as it deems necessary, and
- (g) to adjourn or postpone the proceedings from time to time.

(2) Any witness summoned before the inquiry committee is entitled to the same fees and expenses as he would receive in a court.

(3) There shall be full right to cross-examine all witnesses called, and to call evidence in defence and reply.

(4) The inquiry committee shall, upon request therefor and following payment of the prescribed fee, cause the oral evidence given before it to be taken down in shorthand or mechanically recorded and transcribed, and the stenographer employed shall do so under oath or affirmation.

(5) Every person who

- (a) fails, without valid excuse, to attend an inquiry under this section,
- (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
- (c) at any inquiry under this section refuses to be sworn or to affirm or to declare, as the case may be, or refuses to answer any proper question put to him by the inquiry committee

commits an offence.

(6) No liability shall be incurred by the registrar, the council, an inquiry committee, a member of the council, a sub-committee of the council or an investigator appointed pursuant to subsection 29(1) for anything done or purporting to be done bona fide under this Act.

### **Appeals**

**33.(1)** Any person making a complaint in respect of which an inquiry has been held, or any person who has been affected by any decision of the council under sections 19 to 27, may appeal from the decision or direction of the council to a judge of the Supreme Court at any time within 30 days from the date of the decision or direction of the council.

(2) The judge may, upon the hearing of an appeal pursuant to subsection (1), reverse, confirm or amend the decision or direction of the council or order a further inquiry by the inquiry committee and make such other order, either as to costs or otherwise, as the judge may determine, including a direction that any registration struck off be restored or that any suspension or probation be terminated.

(3) An appeal lies from the decision of the judge to the Court of Appeal within 30 days thereafter, and the Court of Appeal has all the powers that may by this Act be exercised by the judge appealed from.

(4) An appeal taken from a decision or direction of the council shall be deemed to include an appeal from the findings and report of the inquiry committee.

(5) Pending the outcome of an appeal pursuant to subsection (1), any suspension of a member of the medical profession from the practice of medicine, or any striking off of the name or other particulars of a member of the medical profession from any registry made pursuant to this Act shall remain in full force and effect unless otherwise ordered by the court.

(6) The council may, on such terms as it sees fit, stay the operation of any punishment or penalty imposed by it upon any person bringing an appeal under this section pending the outcome of the appeal, and the council may require the giving of reasonable security for its costs of the appeal and payment of any fine already imposed as a condition of granting the stay.

### **Notice of appeal**

**34.(1)** An appeal under subsection 33(1) shall be brought by notice of intention to appeal.

(2) The notice of intention to appeal shall be filed in the registry of the Supreme Court within the time prescribed in subsection 33(1), and the appellant shall serve a copy of the notice of intention to appeal on the registrar within the like time.

**Copies of evidence**

35.(1) Any person desiring to appeal may, upon payment of the prescribed cost of such copies, obtain from the registrar or from the stenographer, as the case may be, one or more certified copies of all oral and documentary evidence upon which the inquiry committee acted in making the finding, report, decision, order or direction complained of and of the finding, report, decision, order or direction.

(2) The person appealing shall lodge in the registry of the Supreme Court, in which the notice of appeal has been filed, one certified copy of the evidence and of the finding, report, decision, order or direction complained of for the use of the judge of the Supreme Court hearing the appeal and the appeal shall be heard and determined thereon.

**Hearing of appeals**

36. An appeal under section 33 shall be heard and determined by the judge or the Court of Appeal, as the case may be, upon the merits, notwithstanding any want of form, but the judge or Court of Appeal may give such directions as may be deemed necessary to enable the proper hearing of an adjudication upon the appeal.

**Prohibitions relating to the practice of medicine**

37.(1) Any person who is not registered under this Act or who is suspended from the practice of medicine pursuant to this Act shall not practise, nor offer to practise, medicine.

(2) A person shall be deemed to practise medicine within the meaning of this Act who

- (a) by advertisement, sign or statement of any kind, written or verbal, alleges or implies that he is, or holds himself out as being, qualified, able or willing
  - (i) to diagnose, prescribe for, prevent, or treat any human disease, ailment deformity, defect or injury,
  - (ii) to perform any operation to remedy any human disease, ailment, deformity, defect or injury, or
  - (iii) to examine or advise upon the physical or mental condition of any person,
- (b) diagnoses, or offers to diagnose, any human disease, ailment, deformity, defect or injury,
- (c) examines or advises upon, or offers to examine or advise upon, the physical or mental condition of any person,
- (d) prescribes or administers any drug, serum, medicine or other substance or remedy for the cure, treatment, or prevention of any human disease, ailment, deformity, defect or injury,
- (e) prescribes or administers any treatment or performs any operation or manipulation, or supplies or applies any apparatus or appliance for the cure, treatment or prevention of any human disease, ailment, deformity, defect or injury, or
- (f) acts as the agent, assistant, or associate of any person, firm or corporation in the practice of medicine.

(3) This section does not apply to

- (a) a duly qualified medical practitioner of any province, state or country who is meeting in consultation in the Yukon with a medical practitioner of the Yukon,
- (b) the furnishing of first aid or temporary assistance in the case of emergency,
- (c) the domestic administration of family remedies,
- (d) the practising by any person of the religious tenets of his church or religion without pretending a knowledge of medicine or surgery, unless he violates any laws regulating or with respect to contagious diseases or sanitary matters,
- (e) the manufacture, fitting or selling of artificial limbs or similar appliances,
- (f) the practice of chiropractic by a chiropractor,
- (g) the practice of dentistry by a dentist,
- (h) the practice of optometry by an optometrist,
- (i) the practice of pharmacy by a pharmacist,
- (j) the practice of nursing by a nurse,
- (k) the practice of physiotherapy by a physiotherapist holding a valid and subsisting licence from any province, state or country and practising under the supervision of a medical practitioner of the Yukon, and
- (l) the practice of denture mechanics by a denture technician.

**Misleading representations**

38. Any person who is not registered under this Act shall not take, use, advertise nor hold himself out under any name, title, addition or description implying or calculated to lead people to infer that he is registered under this Act or that he is qualified to practise medicine or is a licentiate in any field of the practice of medicine.

**Misleading titles**

39.(1) Subject to subsection (2), any person who is not registered under this Act shall not use, assume, employ, advertise nor hold himself out under the title of “doctor”, “surgeon”, “physician” or any other affix or prefix or abbreviation of such titles as an occupational designation relating to treatment of human ailments.

(2) Subsection (1) does not apply to

- (a) any dentist, or
- (b) any person having a diploma in medicine or surgery from any college or school of medicine and surgery and who is not treating or attempting to treat human ailments for gain in the Yukon.

**Instruction in medicine**

40.(1) In this section, “instruction in medicine” means instruction in doing any of the things mentioned in paragraphs 37(2)(b), (c), (d) or (e).

(2) No person shall establish or carry on in the Yukon any school, college or other institution for training or imparting instruction in medicine or in surgery without the consent of the Executive Council Member, but this does not apply to any faculty of medicine in a university in the Yukon, to the instruction of students of medicine, nursing, or medical technol-

ogy carried on by a hospital, school, college or other institution approved for that purpose by the Commissioner in Executive Council in consultation with the council, or to the instruction of persons in first aid.

### **Doctors in public service**

41. No person shall be appointed as a medical officer, physician or surgeon in any branch of the public service of the Yukon, or resident physician or intern in any hospital or other charitable institution, unless he is registered under this Act.

### **Unprofessional conduct**

42. It is an example of "unprofessional conduct" on the part of a person registered under this Act for him to place or permit to be placed the name of any pharmacist, pharmaceutical chemist, or association for the sale of drugs or medicine upon any prescription issued by him.

### **Kickbacks**

43. No medical practitioner shall take or receive any remuneration by way of commission, discount, refund, or otherwise from any person who fills a prescription given or issued by a medical practitioner or who makes or supplies medical appliances.

### **Delivery of notices**

44.(1) Any notice required by this Act to be given to or served upon a medical practitioner, except a notice required pursuant to subsection 17(3), shall be in writing, and may be given to or served upon any medical practitioner by registered mail addressed to the medical practitioner at his address as set out in the Yukon medical register, the temporary register, the limited register or the corporation register.

(2) A notice, if given or served by mailing, shall be deemed to have been received at the time when the envelope containing the notice would be delivered in the ordinary course of the post, and in proving such service it shall be sufficient to prove that the envelope containing the notice was properly addressed and duly mailed.

### **Proof of offences**

45. In any prosecution under this Act, it is sufficient proof of an offence under this Act if it is proved that the accused has done or committed a single act of unlawful practice or has committed on one occasion any of the acts prohibited by this Act.

### **No action for fees**

46. No person who is prohibited from practising medicine under this Act is entitled to recover any charge in any court of law for any medical or surgical advice, for attendance, for the performance of any operation, or for any medicine that he has prescribed or supplied, but this section does not extend to the sale of any drug or medicine by a duly licensed pharmacist or pharmaceutical chemist.

### **Unlawful practice of medicine**

47.(1) If any person not registered under this Act practises or professes to practise medicine contrary to this Act, he is liable on summary conviction to a penalty of not less than \$500, or to imprisonment for a period not exceeding six months, or to both fine and imprisonment.

(2) If any person not registered under this Act wilfully procures or attempts to procure himself to be registered by making false or fraudulent representations or declarations, either verbally or in writing, he is liable on summary conviction to a penalty of not less than \$500, and every person knowingly aiding or assisting him therein is liable on summary conviction, to a penalty of not less than \$500.

(3) Where a person authorized pursuant to this Act to carry on the practice of medicine practises in partnership with or under a contract with any person not entitled to practise medicine or does any act to enable such person not entitled to practise medicine to practise medicine, the person authorized pursuant to this Act to carry on the practice of medicine is liable on summary conviction to a penalty not exceeding \$500 and not less than \$200, and any member of the medical profession convicted under this section shall have his name struck from the Yukon medical register, the temporary register, the limited register or the corporation register, as the case may be.

(4) No charge shall be brought under this section without written notice to the council, evidenced by a certificate given under the hand of the registrar.

**Penalty**

48.(1) Where no other penalty is by this Act provided, any person guilty of an offence against this Act, or who violates or commits any breach of this Act, is liable on summary conviction for the first offence to a penalty of not less than \$200, for a second offence to a penalty of not less than \$500, and for a third offence shall be imprisoned for a period of not less than one month.

(2) Where, in the case of a third offence, the offender is registered under this Act, the council may, upon proof of conviction, strike his name from the Yukon medical register, the temporary register, the limited register or the corporation register, as the case may be.

**PROFESSIONAL CORPORATIONS**

**Incorporation**

49. Any person or persons registered under this Act to practise medicine in the Yukon may incorporate a company, herein called a "professional corporation", pursuant to the Business Corporations Act for the purpose of carrying on the practice of medicine.

**Requirements to be met**

50.(1) The practice of medicine shall not be carried on by, through or in the name of a professional corporation unless

- (a) all the issued shares of the professional corporation to which are attached voting rights normally exercisable at general meetings thereof are registered in the name of and owned beneficially by one or more medical practitioners registered under this Act,
- (b) all the directors of the professional corporation are medical practitioners registered under this Act,
- (c) all persons who will carry on the practice of medicine by, through or on behalf of the professional corporation are medical practitioners registered under this Act, and



- (d) the professional corporation is the holder of a valid and subsisting permit issued by the registrar pursuant to section 51.

(2) For the purposes of paragraph (1)(c), the practice of medicine shall not be deemed to be carried on by clerks, secretaries, nurses or other assistants performing services which are not usually and ordinarily considered by law, custom and practice to be services which may be performed only by a medical practitioner registered under this Act.

(3) Notwithstanding section 49, no professional corporation shall be enrolled as a medical practitioner.

### **Permits for corporations**

51.(1) The registrar shall issue a permit to a professional corporation that

- (a) files an application in the prescribed form,
- (b) pays the prescribed fees,
- (c) satisfies the registrar that the professional corporation is a corporation in good standing incorporated pursuant to the Business Corporations Act,
- (d) satisfies the registrar that it is not restricted by its memorandum or articles of association or by the Business Corporations Act from carrying on all businesses and activities associated with or incidental to the practice of medicine, and
- (e) satisfies the registrar as to the facts set out in paragraphs 50(1)(a), (b) and (c).

(2) A permit issued hereunder shall expire on December 31 of the year for which it is issued, unless earlier revoked pursuant to this Act.

### **Trusts and proxies**

52. No medical practitioner who is a member of a professional corporation shall enter into any voting trust agreement, proxy or other type of agreement vesting in another person who is not a registered practitioner the authority to exercise the voting rights attached to any or all of his shares.

### **Liability of members**

53. Notwithstanding any provision to the contrary in the Business Corporations Act, all persons who carry on the practice of medicine by, through or on behalf of a professional corporation are liable in respect of acts or omissions done or omitted to be done by them in the course of the practice of medicine to the same extent and in the same manner as if such practice were carried on by them as a partnership or, where there is only one such person, as an individual carrying on the practice of medicine, except that, subject to the Business Corporations Act, a professional corporation or any members thereof may agree to indemnify a medical practitioner in respect of any liability for such act or omission.

### **Effect of incorporation**

54. Nothing contained in sections 49 to 60 shall be deemed to limit the application of the provisions of this Act to any registered practitioner or the application of any law relating to the confidential or ethical relationships between a practitioner and a person receiving his professional service.

**Relationship with patients**

55. The relationship between a professional corporation and person receiving the professional services of any medical practitioner practising by, through or on behalf of such professional corporation is subject to all applicable law relating to the confidential and ethical relationships existing between a registered practitioner and his patient.

**Rights and obligations of shareholders, directors and staff**

56. All rights and obligations pertaining to communications made to or information received by a registered practitioner are applicable to the members, directors, officers, agents and employees of every professional corporation.

**Application of the Act**

57. All the provisions of this Act which are applicable to registered medical practitioners apply with all necessary modifications to professional corporations.

**Revocation of permit**

58.(1) The permit of a professional corporation may be revoked or its renewal withheld by the registrar if the professional corporation fails at any time to meet the qualifications set forth in section 51.

(2) Where a professional corporation ceases to meet the qualifications for holding a permit by reason only of

- (a) the death or retirement of a registered practitioner who is the sole director of the professional corporation, or
- (b) the striking off or other removal from the register of the name of a practitioner who is the sole director of a professional corporation,

then, unless at the expiration of 90 days from the date of death, retirement, striking off or other removal or suspension, as the case may be, the professional corporation is qualified under section 51, its permit shall terminate at the expiration of such 90 day period.

(3) Subsection (2) shall not prevent the registrar from making an order revoking the permit of a professional corporation at any time in accordance with this section.

**Action for fees**

59. A professional corporation may sue for fees for services performed by or through it or on its behalf by a person in his capacity as a registered practitioner at any time after the services are performed, if the services were performed during the time that the professional corporation was the holder of a valid and subsisting permit issued pursuant to section 51.

**Proof of registration**

60.(1) A certificate purporting to be signed by the registrar and stating that a named professional corporation was or was not, on a specified day or during a specified period, a professional corporation according to the records of the registrar, shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the registrar's appointment or signature.

(2) All members, directors, officers, agents and employees of professional corporations whose conduct is being investigated under this Act are compellable witnesses in any proceedings under this Act.

### **Regulations**

**61.** For the purpose of carrying into effect the provisions of this Act according to the true intent and meaning thereof, the Commissioner in Executive Council may make such regulations as may be deemed necessary and not inconsistent with the spirit of this Act, and without restricting the generality of the foregoing, the Commissioner in Executive Council may make regulations

- (a) providing for the keeping of the medical registers;
  - (b) prescribing the fees to be paid by applicants for registration, and, if deemed advisable, designating different classes of applicants and prescribing different fees for different classes;
  - (c) determining the relationship between the council and the Medical Council of Canada and incorporating into the regulations under this Act any of the provisions of the Medical Act (Canada) that are not contrary to the provisions of this Act;
  - (d) providing for the holding of meetings of the council and the conduct of such meetings;
  - (e) prescribing the records and accounts to be kept by members of the medical profession with respect to the practice of medicine;
  - (f) prescribing the procedure to be followed and the rules of evidence to be observed in any proceedings upon any inquiry or hearing held under the provisions of this Act;
  - (g) fixing the time and place of regular meetings of the council, determining by whom meetings may be called, regulating the conduct of meetings, providing for emergency meetings, and regulating the notice required in respect of meetings;
  - (h) prescribing the form and content of the applications for registration in the Yukon;
  - (i) prescribing the manner of proof as to matters required to be proven by applicants for permits under section 51;
  - (j) fixing the fees payable to the registrar for the issuance of permits and the fees payable annually by professional corporations;
  - (k) providing for the annual renewal of permits and prescribing the terms and conditions upon which renewals may be granted.
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# CHAPTER 115

## MENTAL HEALTH ACT

### Interpretation

1. In this Act,

“approved institution” means the Whitehorse General Hospital and such other place or institution, whether within or outside the Yukon, as may be prescribed;

“court” means a justice of the peace or a judge of the Supreme Court, as the case may be;

“detain” means keep under control by such use of force, mechanical apparatus, secure enclosure, or drugs as is reasonable having regard to the conduct and the apparent physical and mental condition of the person;

“mentally disordered person” means a person

- (a) in whom there is such a condition of arrested or incompleting development of the mind, whether arising from inherent causes or induced by disease or injury, that he requires treatment, supervision, or care and control for the protection of the public or for his own protection or for the protection of his property or the property of others, or
- (b) who is suffering from such a disorder of the mind that he requires treatment, supervision, or care and control for the protection of the public or for his own protection or for the protection of his property or the property of others;

“public administrator” means the person appointed to that office in the manner authorized by law.

### Jurisdiction

2.(1) An application under this Act may be made to a justice of the peace having jurisdiction in the area in which a person alleged to be mentally disordered resides or may be, or a judge of the Supreme Court, either of whom has jurisdiction to entertain the application and make such orders under this Act as may be necessary.

(2) Where an application is made to a justice of the peace, he shall, having regard to the urgency with which the application should be dealt with for the safety of life and property, exercise jurisdiction under this Act or direct that it should be made to a judge.

(3) For the purposes of determining the right of appeal, any decision of a justice of the peace under this Act may be appealed to a judge of the Supreme Court within 60 days of the decision appealed against, or such additional time as a judge of the Supreme Court may allow.

(4) An appeal under subsection (3) may be taken by notice of motion and the Supreme Court judge may hear the appeal on the record of the proceedings before the justice of the peace or require the appeal to be heard as a new application, and the judge may make such order as he thinks the justice of the peace ought to have made.

**Application**

3.(1) Any person may make an application to the court, supported by his affidavit giving reasons therefor, alleging that a person is or is suspected and believed to be a mentally disordered person, and requesting an order declaring that such person is a mentally disordered person, respecting his custody or treatment and respecting the management of his property.

(2) Subject to a direction pursuant to section 2, the court may, if satisfied that the application and supporting affidavit warrant a hearing, issue a warrant in the prescribed form to apprehend the person alleged to be mentally disordered and bring him before the court for a hearing or take him to an approved institution for examination and assessment or to a place of secure detention under subsection (4).

(3) Any peace officer who has reasonable and probable grounds to believe and does believe that a person is mentally disordered and is acting in a manner that is dangerous to himself or to others may apprehend and detain that person without a warrant and take the person to an approved institution for examination and assessment or to a place of secure detention under subsection (4).

(4) An alleged mentally disordered person who has been apprehended under subsection (2) or (3) may be detained in any place of secure detention, whether within or outside an approved institution, where his conduct creates danger to others and proper provision cannot be made for his detention in an approved institution.

**Evidence at hearing**

4.(1) The court shall, at the hearing, hear evidence concerning,

- (a) the alleged mental disorder, including the evidence of two medical practitioners,
- (b) the residence, name, age and other particulars of the person alleged to be mentally disordered,
- (c) the means of support of the person alleged to be mentally disordered and the property, both real and personal, of the person alleged to be mentally disordered,
- (d) his marital status and dependents, if any, and
- (e) such other matters as the court deems relevant to the case,

but where the evidence mentioned in paragraph (a) is not available the court may dispense with such evidence if having regard to all the circumstances of the case it is proper to do so.

(2) The court has full power to compel attendance of witnesses and the production of documentary or other evidence, and to take any other steps it deems necessary for a full and proper hearing.

**Court orders**

5.(1) Where the court is not satisfied that the person alleged to be mentally disordered is mentally disordered, it shall order dismissal of the application and make such order as to costs or otherwise as it deems just in the circumstances.

(2) Where the court is satisfied that the person alleged to be mentally disordered is mentally disordered, it shall make an order to that effect, and shall commit the person, by warrant in the prescribed form, to the custody of the Royal Canadian Mounted Police to remain in custody until the pleasure of the Commissioner in Executive Council is known or the person is discharged by law.

(3) Where an order and warrant are made under subsection (2), the court shall cause copies thereof and of the evidence produced before it to be sent, as soon as possible, to the Executive Council Member.

(4) The Executive Council Member may make any order he deems advisable as to the future custody of the mentally disordered person or may, in his discretion, direct that the hearing be re-opened or that a new hearing be held or that any other inquiry or steps be taken that he deems advisable.

### **Admission to institution**

6.(1) The chief executive officer of an approved institution may admit a person to and detain him in the institution where he receives in respect of that person a medical certificate in the prescribed form and with the prescribed content from each of two medical practitioners who are licensed to practise medicine in the Yukon or in any province.

(2) Subject to subsection 3(4), where a person is apprehended under subsection 3(2) or (3), he shall forthwith be taken to, admitted to, and detained in an approved institution.

(3) A person who is admitted to an approved institution under subsection (1) or (2), or who is detained under subsection 3(4) in a secure place of detention shall not be detained there for more than 24 hours except upon the authority of an order of the court or a warrant made or issued under this Act.

(4) A person who is detained under section 3 or under this section may be medically examined and psychiatrically assessed with a view to the results of the examination or assessment being used in further proceedings under this Act and, pending such proceedings, the person may also be given such medical or psychiatric treatment as is authorized under subsection 7(1).

### **Medical or psychiatric treatment**

7.(1) A person who is being detained under section 6 or who has been declared by the court in a subsisting order to be mentally disordered may be given medical or psychiatric treatment without his consent where

- (a) the treatment is given or authorized by a medical practitioner or other person authorized by law to give the treatment,
- (b) the treatment is necessary to preserve the life or the mental or physical health of the person,
- (c) failure to give the treatment or delay in giving the treatment would create a reasonably foreseeable risk of injury to the person or to any other person, and

- (d) in the case of a person who is being detained under section 3 or under section 6 and has not yet been declared by the court in the proceeding then in progress to be mentally disordered, the treatment cannot reasonably be delayed through alternate means of detention or some other way until the conclusion of that proceeding.

(2) A person who has been declared by the court in a subsisting order to be mentally disordered may be given medical or psychiatric treatment without his consent where the treatment

- (a) is necessary to preserve the life or to preserve or restore the mental or physical health of the person,
- (b) is authorized by the court after hearing an application under section 3, and
- (c) is given or authorized by a medical practitioner or other person authorized by law to give the treatment.

**Mental Health Review Board**

8.(1) There is hereby established a Mental Health Review Board which shall consist of the following members to be appointed by the Commissioner in Executive Council:

- (a) two medical practitioners;
- (b) one member of the Law Society of Yukon;
- (c) three other persons.

(2) The board shall have the power and the duty to review the circumstances of

- (a) all admissions and detentions under section 6, as soon as practical after the admission,
- (b) all committals under section 5, as soon as practical after the committal, and
- (c) the custody, treatment, and mental and physical condition of all persons committed under section 5, at intervals of not more than 60 days after the committal of that person.

(3) Where the board has conducted a review it may make recommendations concerning what applications, if any, ought to be made under this Act.

(4) The Commissioner in Executive Council shall appoint one of the members of the board to be chairperson and another to be vice-chairperson.

(5) The chairperson is the chief executive officer of the board and he shall supervise and direct the work of the board, and preside at meetings of the board.

(6) If the chairperson is unable at any time for any reason to exercise the powers or perform the duties of his office, the vice-chairperson may act in his place.

(7) Three members of the board is a quorum, but no quorum exists unless the chairperson or vice-chairperson is present.

(8) The board shall meet at the call of the chairperson who shall convene such meetings as he considers necessary for the conduct of the business of the board.



(9) A member of the board may be paid such remuneration as may be prescribed.

(10) A member of the board may be paid transportation, accommodation, and living expenses incurred in connection with the performance of his duties as a member of the board away from his ordinary place of residence but, except as otherwise provided by the regulations, the payment of such expenses shall conform as nearly as possible to the payment of such expenses for members of the public service of the Yukon.

(11) The Executive Council Member may provide such financial assistance to the board and, from among the persons employed in the public service, provide the board with such assistants as he may deem necessary for the proper conduct of the business of the board.

### **Information to be given upon detention or committal**

- 9.(1) A person who is detained under section 6 shall be informed as soon as practical of
- (a) the proceedings under this Act that will or might be taken in respect of him,
  - (b) his right to appear in court and oppose any application affecting him that might be made,
  - (c) his right to retain counsel to represent him in those proceedings and any future review or appeal, and
  - (d) his possible eligibility for legal aid to help him to retain counsel.

(2) A person who is committed under section 5 shall be informed as soon as practical of his rights of appeal and further review by the court under this Act.

(3) A person who is detained under section 6 or who is committed under section 5 shall be given reasonable opportunity to consult counsel from time to time.

### **Management of estates**

10.(1) Where the court declares that a person is a mentally disordered person, it may appoint one or more trustees to manage his property, and if no trustees are appointed, the public administrator shall manage his property as an estate.

(2) In considering the appointment of a trustee, the court shall first consider whether the spouse of the mentally disordered person is a fit and proper person to be appointed as sole trustee or jointly with another person.

(3) Subject to any further order by the court, or by the Commissioner in Executive Council, the public administrator or the trustees appointed under subsection (1), as the case may be shall have full power to manage, administer and care for the estate of a mentally disordered person and may sell, purchase, mortgage, lease, repair or do any matter or thing and take any proceeding they deem necessary for this purpose.

(4) The public administrator or the trustees appointed under subsection (1), as the case may be, shall carry out any order of the court or of the Commissioner in Executive Council respecting an estate of a mentally disordered person and may apply to the court or the Commissioner in Executive Council for directions as to the performance of their duties.

(5) The public administrator shall file once each year with the Executive Council Member an accounting of all assets in each continuing estate under his control.

(6) The public administrator, or any person appointed as trustee under subsection (1), is liable to render an account of his management of an estate and to provide any affidavits the Commissioner in Executive Council may require.

**Discharge of mentally disordered person**

11. The Executive Council Member may order or any person may apply to a judge of the Supreme Court for an order that a mentally disordered person be declared to be no longer mentally disordered and be discharged by law and respecting any other matters respecting his return from custody and the return of his estate to him as may be deemed just and proper.

**Court procedure**

12.(1) Subject to subsection (2), the procedure for proceedings in the court under this Act shall be the same as is provided in the Rules of Court for civil proceedings in the Supreme Court.

(2) An application under this Act to a justice of the peace or a judge of the Supreme Court may be made by notice of motion and dealt with as though it were an interlocutory application in a proceeding under the Rules of Court.

**Regulations**

13. The Commissioner in Executive Council may,

- (a) make any regulations he deems necessary to carry out the provisions of this Act;
  - (b) prescribe forms.
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# CHAPTER 116

## MINERS LIEN ACT

### Interpretation

#### 1. In this Act,

“mine” or “mining claim” means a mine, claim or mineral claim as defined in the Yukon Quartz Mining Act (Canada) and the Yukon Placer Mining Act (Canada);

“miner” means any person working upon a mine or mining claim or in connection therewith;

“owner” includes a person having any estate or interest in a mine or mining claim in respect of which work or service is done or materials are furnished, at whose request and upon whose credit or on whose behalf or with whose consent or for whose direct benefit any such work or service is performed or materials are placed or furnished, and all persons claiming under him whose rights are acquired after the work or service or furnishing of materials in respect of which the lien is claimed is commenced;

“registration” means the filing or depositing of an instrument with the mining recorder.

### Lien for work and materials

2.(1) Any person who performs any work or service in respect of or places or furnishes any material to be used in the mining or working of any placer or quartz mine or mining claim shall, by virtue thereof, have a lien for the price of such work, service or material upon the minerals or ore produced from and the estate or interest of the owner in the mine or mining claim in or in respect of which such work or service is performed or material furnished, limited however in amount to the sum justly due to the person entitled to the lien.

(2) The lien shall attach upon the estate or interest of the owner and of all persons having any interest in the mine or mining claim and all appurtenances thereto, the minerals or ores produced therefrom, the land occupied thereby or enjoyed therewith and the chattels, equipment and machinery in, upon or used in connection with such mine, mining claim or land.

(3) Upon registration, the lien shall attach and take effect as against persons purchasing and mortgagees and other encumbrancers registering their mortgages or encumbrances subsequent to the commencement of performance of work or service or furnishing of material in respect of which the lien is claimed.

### Priority of lien

3. Any lien registered under this Act shall, as to one-half of the output from the mine or mining claim in respect of which the lien is claimed, take priority over all mortgages and encumbrances registered subsequent to November 16, 1957.

**REGISTRATION OF LIEN**

**Claim of lien**

4.(1) A claim of lien may be deposited in the office of the mining recorder for the district in which the mine or mining claim is situate and shall state

- (a) the name and residence of the claimant and of the owner of the property to be charged and of the person for whom and upon whose credit the work or service is performed or material furnished and the time or period within which the same was or was to be performed or furnished,
- (b) the work or service performed or material furnished,
- (c) the sum claimed as due or to become due,
- (d) the description of the property to be charged, and
- (e) the date of the expiry of the period of credit agreed to by the lienholder for payment for his work, service or material where credit has been given.

(2) Such claim shall be verified by the affidavit of the claimant or his agent having a personal knowledge of the facts sworn to.

**Number of claims**

5. A claim may include the claims of any number of miners, labourers or other persons who have performed work or supplied materials who may choose to unite their claims in a case; each claimant shall verify his claim by affidavit but need not repeat the facts set out in the claim.

**Registration**

6. The claim may be registered at any time before the expiration of six months from the last day upon which the work or service or material which is the subject matter of the claim, was performed or furnished or where credit has been given from the time fixed for payment.

**Failure to deposit lien**

7. Every lien that has not been duly deposited under the provisions of this Act shall cease to exist on the expiration of the time previously limited for the registration thereof.

**PROCEEDINGS TO REALIZE LIEN**

**When lien ceases to exist**

8. Every lien that has been duly deposited under this Act shall cease to exist upon the expiration of 60 days after deposit unless proceedings are instituted to realize the claim and a certificate granted by the Supreme Court, is duly filed in the office of the mining recorder.

**Enforcement proceedings**

9.(1) Proceedings to enforce any lien may be commenced by an originating summons which will set out the grounds upon which the lien is claimed.

(2) A summons shall be granted upon the application of the lienholder supported by his affidavit setting forth the facts of his claim.

**Court may fix liability**

10. Upon the return of the summons the judge, upon being satisfied that due notice has been given to all persons interested, may adjudicate upon the liability of the owner or other person in respect of the claim and may make any order in the matter including allowance of costs of the proceedings that seems meet.

**Uniting of actions, and court orders**

11.(1) Any number of lienholders may join in one summons and any proceedings brought by a lienholder shall be taken to be brought on behalf of all the lienholders who have duly registered their liens before or within 60 days after the commencement of the proceedings or who, within a period of 60 days, file with the clerk of the Supreme Court a statement of their respective claims intituled in or referring to such proceedings.

(2) In the event of the death of the claimant to whom a summons has been granted or his refusal or neglect to proceed any other lienholder who has duly registered his claim or filed his statement in the manner and within the time limit prescribed by this section may be allowed to continue and prosecute the proceedings on any terms that are considered, by the judge, to be just and reasonable.

(3) If the minerals or ore produced from the mine or mining claim against which the lien is registered are not sufficient to satisfy the liens so registered, the judge may direct a sale of any estate or interest or any material, equipment, machinery and chattels charged with the lien to take place at any time after three months from the recovery of judgment.

(4) In any case in which judgment is given in favour of any claimant the judge may order payment to the claimant of his costs incidental to registration of his claim of lien.

(5) Upon application the judge may at any time after the expiration of 60 days from the commencement of the proceedings receive payment or security satisfactory to him for payment of a sum sufficient to pay all claims then duly registered as liens or filed with the clerk of the Supreme Court in accordance with subsection (1), together with a sum estimated by the judge to be sufficient to pay all costs mentioned in subsection (4), and the judge may then vacate the registration of any lien then registered against the mine or mining claim which is the subject matter of the proceedings.

(6) Applications may be made by originating summons to the judge at any time by the owner or any person having an estate or interest in the mine or mining claim against which any lien is registered that such lien be vacated, and the judge may upon the application make any order that to him seems meet.

**GENERAL****Death of lien holder**

12. In the event of the death of a lienholder his right of lien shall pass to his personal representatives and the right of a lien holder may be assigned by any instrument in writing.

**Discharge of lien**

13. A lien may be discharged by a receipt signed by the claimant or his agent, verified by affidavit and filed with the clerk of the Supreme Court; such a receipt shall be numbered and entered like other instruments but need not be copied in any book.

**Fees**

14. The Commissioner in Executive Council may prescribe the fees for registering any instrument under this Act.

**Forms**

15. The Commissioner in Executive Council may prescribe the forms to be used for the purposes of this Act.

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# CHAPTER 117

## MOTOR TRANSPORT ACT

### Interpretation

1.(1) In this Act,

“board” means the Motor Transport Board constituted by this Act;

“certificate” means a certificate issued under section 29;

“compensation” includes any rate, remuneration, reimbursement or reward of any kind;

“goods” includes asphalt, earth, water, garbage, refuse, snow and sewage;

“member” means a member of the board;

“owner” means, with respect to a motor vehicle,

- (a) where the vehicle is registered under the Motor Vehicles Act and it is not a rented or leased vehicle, the person in whose name the vehicle is registered,
- (b) where the vehicle is registered under the Motor Vehicles Act and it is a rented or leased vehicle, the person to whom the vehicle is rented or leased, and
- (c) where the vehicle is not registered under the Motor Vehicles Act, the legal owner, a person in lawful possession of the vehicle, or a person who has the exclusive use of the vehicle;

“permit” means a permit issued under section 41, 42 or 43;

“public emergency” includes a flood, forest fire, or earthquake;

“secretary” means the secretary of the board appointed under section 17;

“sticker” means a sticker issued under section 44;

“transport public utility” means a person who is the holder of a certificate or permit.

(2) Any term used in this Act and defined in the Motor Vehicles Act shall have the meaning given to it in the Motor Vehicles Act.

### Authority required

2.(1) Except as provided by this Act, no person shall operate a motor vehicle on a highway for the purpose of transporting goods or passengers, or for the purpose of transporting goods in a trailer towed by the motor vehicle, unless a certificate or permit has been issued authorizing the operation of the vehicle on the highway for that purpose.

(2) A certificate or permit is required for the purposes of subsection (1) to authorize the operation of a pilot car on a highway in connection with the operation of another vehicle on a highway unless no compensation is payable to, or is sought or received by, the owner of the pilot car, directly or indirectly, for the operation of the pilot car in connection with the operation of the other vehicle.

(3) A certificate or permit is required for the purposes of subsection (1) to authorize the operation of a vehicle on a highway where the operation is named in the regulations, individually or as part of a class, as one for which a certificate or permit is required.

**Exemptions from the Act**

3.(1) This Act does not apply to a vehicle registered in the name of the Government of the Yukon.

(2) This Act does not apply to the operation of a vehicle, or a class of vehicles, that is exempted by the regulations from the application of this Act.

(3) This Act does not apply to the transportation of goods that are exempted by the regulations from the application of this Act.

**Where a certificate or permit is not required**

4.(1) A certificate or permit is not required for the purposes of subsection 2(1) to authorize the operation of a motor vehicle on a highway for the transportation of goods or passengers where no compensation is payable to, or is sought or received by, the owner of the vehicle, directly or indirectly, for the transportation of the goods or passengers by means of the vehicle.

(2) A certificate or permit is not required for the purposes of subsection 2(1) to authorize the operation of a motor vehicle on a highway for the transportation of goods that are the property of the owner of the vehicle, or for the transportation in connection with the business of the owner of the vehicle of goods that are held by him for sale or lease, or that are used or consumed in the business.

(3) A certificate or permit is not required for the purposes of subsection 2(1) to authorize the operation of a motor vehicle on a highway for the transportation of goods in performance of a contract between the person in whose name the vehicle is registered under the Motor Vehicles Act and any government or government agency for the construction or maintenance of a public work in the Yukon.

**Order determining requirements**

5.(1) Any person may apply to the board for an order determining whether a certificate or permit is required for the purposes of subsection 2(1) to authorize the operation of a motor vehicle on a highway by that person for a specific purpose.

(2) An application under subsection (1) shall set forth a description of the motor vehicle and a statement as to the purpose for which the vehicle is being operated, or is proposed to be operated, and such other information as the board may require to ascertain the application of this Act to the operation of the motor vehicle on a highway for that purpose.

(3) Notwithstanding any other provision of this Act, a certificate or permit is not required for the purpose of subsection 2(1) to authorize the operation of a motor vehicle on a highway for a purpose where the board has, by order, determined that a certificate or permit is not required to authorize the operation of the motor vehicle on the highway for that purpose.

(4) The board may make an order under this section upon an application for a certificate or permit.



**Order to apply**

6. Where the board is of the opinion that the operation of a motor vehicle on a highway may be an operation required to be authorized by a certificate or permit under subsection 2(1), the board may order the owner of the vehicle, at his option, to apply to the board for

- (a) an order under section 5, or
- (b) a certificate or permit.

**Board constituted**

7. There shall be a board to be called the Motor Transport Board consisting of a chairperson and four members to be appointed by the Commissioner in Executive Council.

**Quorum**

8. Three members constitute a quorum of the board.

**Appointment of members**

9. Each of the members of the board shall hold office during pleasure for a term of three years.

**Remuneration**

10. The members of the board shall be paid such remuneration as the Commissioner in Executive Council prescribes.

**Vacancy**

11. A vacancy in the membership of the board does not impair the right of the remainder to act.

**Substitute members**

12. If any member of the board by reason of absence or incapacity is unable at any time to perform the duties of his office, the Executive Council Member may appoint a person to act for the absent or incapacitated member.

**Chairperson and vice-chairperson**

13.(1) The chairperson is the chief executive officer of the board and has supervision over and direction of the work of the board.

(2) The Executive Council Member shall designate one of the members to be vice-chairperson of the board.

(3) If the chairperson is absent or is unable to act or if the office is vacant, the vice-chairperson has and may exercise all the powers and functions of the chairperson.

**Meetings**

14. The board may be called together at any time by the chairperson or the Executive Council Member for the purpose of considering applications, objections or complaints at the time and place fixed by the chairperson or the Executive Council Member.

**Meetings**

15. The board may meet at any time on its own motion to perform any of its functions or duties under this Act.

**Experts**

16.(1) Subject to the approval of the Executive Council Member, the board may from time to time appoint one or more persons having special technical or other knowledge to enquire into and report on any matter before the board or in respect of which the board deems it necessary to have information.

(2) A person appointed pursuant to subsection (1) shall be paid such remuneration as the Commissioner in Executive Council may prescribe.

**Secretary and staff**

17.(1) The Executive Council Member may, from among the persons employed in the public service,

- (a) designate a person to be the secretary of the board, and
- (b) provide the board with such other employees or assistants as he may deem necessary for the proper conduct of the business of the board.

(2) The secretary is responsible for the administration with respect to the board's functions under this Act, and he shall

- (a) keep a record of the business conducted by the board,
- (b) receive applications, submissions and complaints made to the board,
- (c) keep and take care of the records, documents and orders of the board, and
- (d) obey the instructions given to him by the chairperson relating to his office as secretary of the board.

**Federal powers**

18. The board has the capacity to accept and exercise powers conferred upon it under the Motor Vehicle Transport Act (Canada) and the National Transportation Act (Canada).

**Delegation by board**

19.(1) The board may delegate any of its administrative functions to the secretary or to any other member of the public service of the Yukon.

(2) The powers of the board under sections 41, 42 and 43 may be exercised by the secretary or by a person acting on behalf of the secretary and authorized in writing to do so by the chairperson of the board.

(3) Every decision made by or on behalf of the secretary under this section shall be deemed to be a decision of the board. but it subsequently may be over-ruled by the board.

(4) The secretary may, subject to the approval of the board or the chairperson of the board, give instructions regarding the issuance of permits.

**Investigations**

20.(1) The board may authorize a member or any other person to investigate and report on any question or matter arising in connection with the business of the board.

(2) A person authorized pursuant to this section has all the powers of the board for the purpose of taking evidence or acquiring the necessary information for his report.

(3) The board may authorize any person to assist the board, whether at a public hearing or otherwise, in the conduct of the business of the board.

### **Additional duties**

21. The board shall conduct such investigations, make such reports and perform such duties, in addition to the duties assigned to it by this Act, as the Executive Council Member directs.

### **Expenses**

22. The members of the board shall be paid such reasonable transportation, accommodation and living expenses incurred in connection with their duties while away from their ordinary place of residence as the Commissioner in Executive Council may prescribe.

### **Confidentiality**

23.(1) Where in the opinion of the Supreme Court it is not in the public interest, no member of the board or its staff shall be compelled to give testimony in a court of civil jurisdiction with regard to information obtained in the discharge of his official duty or to produce any file, papers, information, reports, correspondence or other documents relating to the business of the board.

(2) Every member and officer of the board shall keep secret all information coming to his knowledge during the course of any inspection, examination or investigation of any return, account, record, memorandum, book or paper of any transport public utility, except insofar as his public duty requires him to report upon or take official action regarding the affairs of the transport public utility, or except insofar as he may be authorized by the board to publish or to make known information.

### **Annual report**

24.(1) The board shall, not later than May 31 in each year, transmit to the Executive Council Member a report for the year ending the preceding March 31 concerning the affairs of the board and showing the activities of the board for that year.

(2) The annual report of the board shall be tabled at the next ensuing session of the Legislative Assembly.

### **Appointment of inspectors**

25.(1) The Executive Council Member may appoint inspectors to enforce the provisions of this Act.

(2) Every peace officer and every person employed to operate weight scales established under the Highways Act shall be deemed to be an inspector appointed under section 25.

### **Reports**

26. The board shall furnish to the Executive Council Member, at his request, a report respecting the granting of a certificate contemplated by the board or a proposed increase in rates by the holder of a certificate.

**Complaints**

- 27.(1) Any person may file a complaint with the board respecting
- (a) the manner in which the holder of a certificate provides service, or
  - (b) the areas to which the holder of a certificate provides service.

(2) The board shall, without undue delay, hear and adjudicate upon any complaint filed pursuant to subsection (1) and may make an order

- (a) determining the conditions and manner in which a holder of a certificate shall provide transport services, or
- (b) requiring the holder of a certificate to establish, construct, maintain and operate any reasonable extension to its existing facilities.

(3) Notwithstanding subsection (2), where a complaint filed pursuant to subsection (1) is, in the opinion of the board, frivolous, vexatious, calculated to delay or without substance, the board may without a hearing summarily dismiss the complaint.

**Complaint by Executive Council Member**

28. The Executive Council Member may, in respect of any transport public utility, file a complaint with the board respecting any matter that can be the subject of a complaint pursuant to subsection 27(1) and the board has the same powers to deal with such complaint as it has under section 27.

**Issuance of certificates**

29.(1) Subject to section 30, the board may issue a certificate to a person to operate one or more motor vehicles on a highway for a purpose mentioned in subsection 2(1) where

- (a) an application for the certificate in the prescribed form is received by the board,
- (b) the prescribed fees are paid, and
- (c) such information as the board may require is received from the applicant.

(2) The board in its discretion may grant or refuse an application under subsection (1) in whole or in part, and a certificate issued under subsection (1) may contain such terms and conditions as the board deems appropriate.

- (3) Every certificate shall be in the prescribed form and shall set out
- (a) the name of the person to whom the certificate is issued,
  - (b) the number of motor vehicles that may be operated on highways at one time under the certificate,
  - (c) the size and type of motor vehicles that may be operated under the certificate,
  - (d) a description of the highways on which motor vehicles are authorized to be operated under the certificate,
  - (e) a statement as to the purpose for which motor vehicles are authorized to be operated under the certificate,
  - (f) the terms and conditions subject to which motor vehicles are authorized to be operated under the certificate,

- (g) a statement as to the circumstances in which the authority conferred by the certificate shall be considered not to have been fully exercised for the purposes of section 69, and
- (h) such other information as may be required by the regulations to be specified on the certificate.

(4) Upon any application for a certificate, the board shall take into consideration amongst other matters,

- (a) any objection to the application made by any person already providing transport facilities of the type the applicant intends to provide on the ground that suitable facilities are or if the certificate was issued would be in excess of requirements, or on the ground that any of the conditions of any other certificate or licence held by the applicant have not been complied with,
- (b) the general effect on other transport services and any public interest that may be affected by the issue of such certificate, and
- (c) the quality and permanence of the service to be offered by the applicant and the fitness, willingness and ability of the applicant to provide proper service.

(5) Notwithstanding any other provision of this Act, the board shall comply with any directive given by the Commissioner in Executive Council under section 70 with respect to the circumstances or criteria the board must consider and give effect to when exercising its powers under this Act.

(6) Notwithstanding subsection 30(1), the board may in its discretion and without holding a hearing issue a temporary certificate for the purpose and time stated in the certificate.

(7) Subject to subsection (8) a temporary certificate may be issued under subsection (6) only to a person whose principal place of business is in the Yukon.

(8) Subsection (7) does not apply where equipment that is not regularly available in the Yukon is required or where equipment is not available in the Yukon when it is required.

(9) The holder of a certificate or any other person affected by the issuance of a temporary certificate under subsection (6) may, within 14 days of the issuance of the certificate, apply to the board to have the temporary certificate amended or revoked.

### **Hearing and notice**

**30.(1)** The board shall, before it issues a certificate, give not less than 21 days notice of its intention to hold a public hearing with respect to the application for the certificate, and the notice shall be given by publishing a notice in the prescribed form in a newspaper that circulates throughout the Yukon.

(2) Any person may, by delivering or mailing a notice in the prescribed form to the secretary, notify the board of his desire to appear at the hearing and make representations to the board.

(3) Where no notices are received by the secretary under subsection (2) seven days before the day fixed under subsection (1) for the holding of the hearing, the hearing need not be held, but the certificate shall not be issued until after the day fixed for the holding of the hearing.

(4) Where a notice is received by the secretary under subsection (2) more than seven days before the day fixed under subsection (1) for the holding of the hearing, a certificate shall not be issued until a public hearing has been held.

(5) Subject to subsection (4), where a person gives notice to the board before it issues a certificate that he wants to be heard in relation to the matter, the board may postpone issuing the certificate until a public hearing or a further public hearing has been held.

**Amendment or revocation of certificates**

**31.(1)** The board in its discretion may amend or revoke a certificate, but before it does so it shall give the holder of the certificate ten days notice of its intention to consider the matter, and give him an opportunity to be heard.

(2) The board in its discretion may suspend a certificate in whole or in part pending its consideration of the amendment or revocation of a certificate under subsection (1), without giving notice to the holder of the certificate and without giving him an opportunity to be heard.

(3) The board in its discretion may hold a public hearing with respect to the amendment or revocation of a certificate.

**Notice to other parties**

**32.** In contentious matters, the board may require notice of an application to or hearing by the board to be given to such parties as it directs.

**Through traffic**

**33.** This Act does not apply to the operation of a motor vehicle on a highway for the purpose only of transporting goods or passengers through the Yukon without loading or discharging passengers or goods within the Yukon.

**General jurisdiction**

**34.** The board may order and require any person to do forthwith, or within or at any specified time and in any manner prescribed by the board so far as it is not inconsistent with this Act, any act, matter or thing that such person is or may be required to do under this Act, and may forbid the doing or continuing of any act, matter or thing that is contrary to this Act.

**Powers and liability of board**

**35.(1)** The board may

- (a) enter upon and inspect at any reasonable time any place, building, works, vehicle or other property of the holder of a certificate,
- (b) require the attendance of such persons as it deems necessary to summon, and examine and take the testimony of such persons,
- (c) require the production of such books, plans, specifications and other documents as it deems necessary, and
- (d) administer oaths, affirmations or declarations.

(2) No action or proceeding shall lie against the board or any member of the board or any officer, agent, or staff of the board for anything done or purporting to be done in pursuance of this Act.

(3) The board may order to whom or by whom any costs incidental to any proceedings before the board are to be paid, and may fix the costs to be paid.

(4) Where a hearing is held by the board, any person who

- (a) fails without valid excuse to attend the hearing,
- (b) fails to produce any document, book or paper in his possession or under his control required pursuant to subsection (1), or
- (c) refuses to be sworn or to answer any proper questions put to him by the board,

commits an offence punishable on summary conviction.

### **Rules**

**36.** The board may make rules

- (a) respecting the sittings of the board,
- (b) respecting the procedures for making applications, representations and complaints to the board, the conduct of hearings before the board, and generally the manner of conducting any business before the board, and
- (c) generally, for the carrying on of the work of the board and the management of its internal affairs.

### **Evidence**

**37.** In the conduct of hearings and investigations the board is not bound by the technical rules of legal evidence, and the board may accept and act upon evidence given orally or in writing obtained in such manner as the board deems proper, whether or not the evidence is given on oath or affirmation.

### **Inquiry**

**38.** The board shall inquire into and make recommendations about any matter respecting transportation that the Executive Council Member refers to the board.

### **Interim orders**

**39.** The board may in any matter before it make an interim order and reserve further direction either for an adjourned hearing or for further application.

### **Variation of orders**

**40.(1)** The board may review, rescind, change, alter or vary any decision or order made by it, and may rehear any application or complaint before deciding it.

(2) The holder of a certificate, or any other person affected by an order made by the board under section 5, 31, 58 or 69 may, within 30 days of the making of the order or such further time as the board may allow, apply to the board to have the order varied or rescinded.

**Issuance of permits**

41.(1) The board may issue a permit to operate a motor vehicle on a highway for a purpose mentioned in subsection 2(1) where

- (a) an application for the permit in the prescribed form is received at a place prescribed for the making of applications,
- (b) the prescribed fees are paid,
- (c) the motor vehicle is produced for inspection at the time when, and at the place where, the application is received, and
- (d) such information as may be required by the regulations is furnished with the application.

(2) Every permit issued under this section shall be in the prescribed form and shall set out

- (a) the name of the person to whom the permit is issued,
- (b) a description of the vehicle in respect of which the permit is issued,
- (c) a statement as to the purpose for which the vehicle is authorized to be operated under the permit,
- (d) a description of the highways on which, and the points between which, the vehicle is authorized to be operated under the permit, and
- (e) such other information as may be required by the regulations to be specified on the permit.

(3) No permit shall be issued under this section in respect of more than one vehicle.

(4) Only one permit shall be issued under this section on any day in respect of one motor vehicle, and every such permit expires 14 days after the day on which it is issued.

(5) No permit issued under this section authorizes the operation of a motor vehicle for the purpose of transporting goods except for a one-way trip between the points referred to in paragraph (2)(d), and a permit may specify that no new permit shall be issued under this section in respect of the vehicle unless the motor vehicle, after the issuance of the permit, completes a return trip between the points referred to in paragraph (2)(d).

(6) A permit issued under this section may specify that it takes effect on a day prior to the day on which it is issued.

**Emergency permits**

42.(1) The board may issue an emergency permit to a person to operate a motor vehicle on a highway for a purpose mentioned in subsection 2(1) where

- (a) an application for the permit in the prescribed form is received at a place prescribed for the making of applications,
- (b) such information as the board may require is furnished to the board, and
- (c) the board is of the opinion that the issuance of the permit is necessary because of the existence of a public emergency in the Yukon or in a jurisdiction adjacent to the Yukon.

(2) Every emergency permit shall be in the prescribed form and shall set out

- (a) the name of the person to whom the permit is issued,



- (b) a description of the motor vehicle or motor vehicles in respect of which the permit is issued,
- (c) a statement as to the purpose for which a motor vehicle is authorized to be operated under the permit,
- (d) a description of the highways on which a motor vehicle is authorized to be operated under the permit,
- (e) a statement as to the public emergency in respect of which the permit is issued, and
- (f) such other information as may be required by the regulations to be specified on the permit.

### **Special permits**

**43.(1)** The board may issue a special permit to a person to operate a motor vehicle on a highway for the purpose of transporting specific goods where

- (a) an application for the permit in the prescribed form is received at a place prescribed for the making of applications,
  - (b) the prescribed fees are paid,
  - (c) the motor vehicle, or a trailer towed by the motor vehicle and owned by the owner of the motor vehicle, has been specially designed or modified to transport the goods, and
  - (d) the goods are of such a special and unusual nature that
    - (i) they cannot readily be transported by means of a vehicle that is not specially designed or modified for that purpose, or
    - (ii) it is customary and commercially reasonable that the goods be transported only by means of a vehicle that is specially designed or modified for that purpose.
- (2) Every special permit shall be in the prescribed form and shall set out
- (a) the name of the person to whom the permit is issued,
  - (b) a description of the vehicle or vehicles in respect of which the permit is issued,
  - (c) a description of the specific goods in respect of which the permit is issued, and
  - (d) such other information as may be required by the regulations to be specified on the permit.

### **I.D. stickers**

**44.(1)** A sticker in the prescribed form shall be issued with every permit that is issued.

(2) Where a motor vehicle is operated on a highway and a sticker issued in respect of a permit that has not expired is not displayed on the vehicle in the prescribed manner, a permit shall be deemed not to have been issued authorizing the operation of the vehicle on the highway.

### **Complaints about permits**

**45.(1)** The holder of a certificate or any other person affected by the issuance of a permit under section 41, 42 or 43 may, within 14 days of the issuance of the permit, apply to the board to have the permit amended or revoked.

(2) The holder of a certificate or any other person affected by the policy or practice of the board relating to the issuance of permits under section 41, 42 or 43 may apply to the board to have the policy or practice changed.

**Variation of permits**

46. The board in its discretion may suspend, revoke or amend a permit without giving prior notice to the holder of the permit, without holding a public hearing and without giving the holder of the permit an opportunity to be heard.

**Unregistered vehicles**

47. No permit shall be issued in respect of a motor vehicle that is not registered pursuant to the Motor Vehicles Act or the laws of a place other than the Yukon.

**Motor Vehicles Act**

48.(1) The operation of a vehicle on a highway shall be deemed not to contravene subsection 38(1) of the Motor Vehicles Act where

- (a) the vehicle is operated on the highway in accordance with a permit issued under this Act,
- (b) the vehicle is registered pursuant to the laws of a place other than the Yukon, and
- (c) the registration number plates issued under the laws referred to in paragraph (b) are displayed on the vehicle.

(2) Except as provided by subsection (1), nothing in this Act authorizes the operation of a vehicle in contravention of the Motor Vehicles Act.

**Extensions of time**

49.(1) Where any work, act, matter or thing is by an order or decision of the board required to be done, performed or completed within a specified time, and if the circumstances of the case so require, the board may, upon giving such notice as it deems reasonable or in its discretion without notice, extend or abridge the time so specified.

(2) Where an application is made pursuant to this Act and the board is satisfied that it is in the public interest to do so, it may

- (a) abridge or extend the time for the doing of anything or the service of any notice required by this Act, or
- (b) exempt the application from any of the provisions of this Act,

subject to any condition which it may impose or subject to later compliance with the provisions of this Act, and for that purpose may grant an interim certificate or interim exemption.

**Order final**

50. Every order and decision of the board shall be final and binding until changed or amended by the board but no order of the board shall be effective until a copy thereof is served on the person to whom it is directed.

**Method of service**

- 51.**(1) A copy of any complaint, order or notice shall be served by personally serving it,
- (a) in the case of a corporation, on some person in charge or apparently in charge of its undertaking or at its registered office or chief place of business in the Yukon,
  - (b) in the case of a partnership, on any member thereof, or
  - (c) in the case of an individual, on him.

(2) If in any case it is made to appear to the satisfaction of the board that service of any complaint, order or notice cannot be made in the manner provided in subsection (1), the board may allow service to be made by publication in a local newspaper.

(3) Where a person, partnership or unincorporated group or club has provided a mailing address to the board in an application for a permit or certificate, in a complaint or otherwise, a copy of any order, notice, complaint or other document may, for the purposes of this Act, be served upon him or it by registered mail addressed to him or it at the address most recently provided by him or it to the board.

(4) An order under section 6 may be served by registered mail addressed to the registered owner of the motor vehicle at his address provided in connection with the registration of the motor vehicle in the Yukon or elsewhere.

**No appeal**

**52.** Except as provided in sections 39, 40, 45 and 49, every decision of the board is final, and no order or decision of the board may be questioned, reviewed, restrained or removed by prohibition, injunction, certiorari or any process or proceeding in any court.

**Appeal of law or jurisdiction**

**53.**(1) An appeal lies from a decision or order of the board to the Supreme Court upon a question of law or jurisdiction if such appeal is taken within 30 days of the day the decision or order is made.

(2) On application being made the Supreme Court may extend the time allowed for appeal.

(3) On the hearing of an appeal the Supreme Court shall not draw inferences that are inconsistent with the facts expressly found by the board, and the Supreme Court shall certify its opinion to the board, which shall take whatever steps are necessary in accordance with that opinion.

(4) No order shall be made by the Supreme Court for the appointment of new or different members to the board for any purpose.

(5) Neither the board nor any member of the board is liable in any case to pay costs in respect of an appeal.

**Appearances by the board**

**54.** The board is entitled to be heard by counsel or otherwise upon argument of an appeal.

**Suspension of orders pending appeal**

55. The operation of an order of the board is not suspended by an appeal to the Supreme Court but the Supreme Court or the board may suspend the operation of the order until the appeal has been determined.

**Evidence of orders**

56. In any action or other proceeding, a copy of any order of the board purporting to be certified by a member to be a true copy is prima facie evidence of the order without evidence of the signature of the member.

**Enforcement of orders**

57.(1) Any decision or order made by the board may, for the purposes of enforcement thereof, be made an order of the Supreme Court and when so made may be enforced in like manner as any order of the Supreme Court.

(2) A decision or order of the board becomes an order of the Supreme Court immediately upon the filing with the clerk of the Supreme Court of a certified copy of the decision or order.

**Transfer of certificates**

58.(1) No certificate or right or privilege thereunder shall be capitalized, sold, assigned, leased or transferred except with the prior written approval of the board.

(2) Every certificate capitalized, sold, assigned, leased or transferred in contravention of subsection (1) shall be deemed to be revoked on the day on which the contravention took place.

(3) Where the holder of a certificate is a corporation, the board may require it to report to the board any issue or transfer of shares of its capital stock, and where the board is of the opinion that the number of shares issued or transferred has affected the actual control of the corporation, the issue or transfer shall, unless it was made with the prior written approval of the board, be deemed to be a transfer of the certificate in contravention of subsection (1).

(4) A corporation may, before or after shares in the corporation are issued or transferred, apply to the board for its written approval for the purposes of this section.

**Defacing or altering certificates or schedules**

59. No person shall deface or alter a certificate or a schedule of times, tolls or rates.

**Abandonment or discontinuance of a service**

60. No holder of a certificate shall, without the authority of the board, abandon or discontinue a service established under his certificate.

**Compliance with terms and conditions of permits**

61. No person shall operate a motor vehicle for which a certificate or a permit has been issued except in accordance with the terms and conditions of the certificate or permit.

**Unlawful businesses**

**62.** Except as provided by this Act, no person shall conduct upon a highway by means of a motor vehicle the business of providing transportation services to the public for compensation.

**Offences and penalties**

**63.**(1) A person who fails to comply with the requirements of this Act commits an offence and is liable on summary conviction,

- (a) if an individual, to a fine not exceeding \$500, and in default of payment thereof to imprisonment for a term not exceeding six months, or to both fine and imprisonment, and
- (b) if a corporation, to a fine not exceeding \$5,000

and, in either case, to having the vehicle in respect of which the offence was committed impounded for a period of not more than 90 days.

(2) Any person who advises, solicits or persuades or knowingly instructs, directs or orders any officer, agent or employee of a transport public utility to perform, commit or do any act that is contrary to an order of the board or to the requirements of this Act, commits an offence and is liable on summary conviction to a fine not exceeding \$500 and in default of payment thereof to imprisonment for a term not exceeding six months.

(3) Notwithstanding anything in sections 30 and 31, the board in its discretion may, without prior notice, without a public hearing and without giving the holder of a certificate an opportunity to be heard, amend, suspend or revoke the certificate upon the conviction of the holder of the certificate of an offence under this Act.

(4) Where an offence under this Act committed by a corporation is committed with the consent or connivance of any director, manager, secretary or official of the corporation in charge or apparently in charge of a project, he as well as the corporation, commits an offence and is liable on summary conviction to a sentence not exceeding six months or a fine not exceeding \$500, or to both fine and imprisonment.

(5) Where a complaint is laid against a person who is a corporation, a summons may be issued requiring an officer, director, secretary or partner named therein to appear in court to answer the charge on behalf of the corporation and to attend in court from day to day until the trial or hearing has been completed.

(6) Any person who fails to obey a summons issued pursuant to subsection (5) commits an offence and is liable on summary conviction to a sentence not exceeding six months or a fine not exceeding \$500, or to both fine and imprisonment.

(7) Every person commits an offence who

- (a) makes any return or furnishes any information to the board which is false in any particular,
- (b) fails or refuses to prepare and furnish to the board within the time and in the manner and form required by the board any information in his possession or under his control required under this Act or the regulations,

- (c) upon demand, fails or refuses to exhibit to the board or any person authorized to examine the same any book, paper, account, record, or memorandum in his possession or under his control,
- (d) wilfully obstructs or interferes with any member, officer or employee of the board or any other person in the exercise of the rights conferred or duties imposed by or under this Act, the regulations or orders of the board,
- (e) knowingly solicits, accepts or receives, directly or indirectly, any rebate, concession or discrimination in respect of any service whereby that service is furnished or received in violation of any provision of this Act, the regulations or orders of the board,
- (f) being an officer of the board or a person having access to or knowledge of any return made to the board or of any information procured or evidence taken pursuant to this Act other than at a public inquiry or hearing and, without the authority of the board first obtained publishes or makes known any information, having obtained the information or knowing it to have been derived from that return, information or evidence, or
- (g) fails to produce a permit or bill of lading for inspection when required to do so under section 68.

(8) In any prosecution under this Act in respect of the operation of a motor vehicle in the transportation of any passenger or freight, proof of the fact that any passenger or freight was being transported by the motor vehicle on a highway is prima facie evidence that the passenger or freight was being so transported for compensation.

(9) In a prosecution under this Act, a bill of lading produced to an inspector upon demand made under section 68, or a copy of it certified to be true by the inspector, shall be admitted in evidence without proof of the signature of the person signing the bill of lading or the inspector certifying it, as prima facie proof of

- (a) the origin and destination of the trip,
- (b) the ownership of the goods, and
- (c) the description of the goods.

### **Burden of proof**

64. Where in any prosecution under this Act it is alleged that a certificate or permit is not required for the purposes of subsection 2(1) to authorize the operation of the motor vehicle on a highway, the burden of proving the allegation is on the person making the allegation.

### **Liability of owner**

65.(1) Where a motor vehicle is operated in contravention of any of the provisions of this Act, the owner of the vehicle is liable for the contravention jointly and severally with the person who was operating the vehicle at the time of the contravention.

(2) Without limiting the effect of subsection (1), where a motor vehicle is operated in contravention of section 61, the holder of the certificate is liable for the contravention jointly and severally with the person who was operating the vehicle at the time of the contravention.

(3) Without limiting the effect of subsection (1), where a motor vehicle is operated in contravention of section 61, the holder of the permit is liable for the contravention jointly and severally with the person who was operating the vehicle at the time of the contravention.

(4) Subsections (1) to (3) do not apply where the owner of the vehicle, the holder of the certificate or the holder of the permit, as the case may be, proves to the satisfaction of the court that, at the time of the contravention, the vehicle was not being operated by any person with his consent, express or implied.

(5) Where a motor vehicle is operated in contravention of this Act for the purpose of transporting goods, the owner of the goods is liable for the contravention jointly and severally with every other person who is liable, unless the owner of the goods proves to the satisfaction of the court that the contravention occurred without his consent, express or implied.

### **Seizure and impoundment of vehicles**

**66.**(1) An inspector may

- (a) without warrant, seize a vehicle that in his opinion is being operated in contravention of this Act or the regulations, and
- (b) retain the vehicle in custody for 14 days or until he is satisfied that all fees payable under this Act in respect of the operation of the vehicle have been paid, whichever is less.

(2) Where a vehicle has been seized under this section and it is not released from custody before proceedings are commenced with respect to the operation of the motor vehicle in contravention of this Act, the vehicle shall be retained in custody until the proceedings have been concluded judicially.

(3) Notwithstanding subsections (1) and (2), where a vehicle is seized under this section,

- (a) a justice may upon application release the vehicle or any goods on it upon security being given in such amount as the justice deems appropriate, or
- (b) the vehicle or any goods on it shall be released upon security being given in the prescribed amount.

(4) Where an inspector takes a vehicle into custody he may direct that it be taken to a weigh scale or a place of storage, and all costs and charges for the removal, care and storage of the same and the cargo thereon, if any, are a lien upon the vehicle and may be recovered in the manner provided for as if it were a lien under the Garage Keepers Lien Act.

### **Powers of inspectors**

**67.**(1) An inspector appointed pursuant to section 25 has all the powers of an officer appointed under the Motor Vehicles Act.

(2) For the purpose of the enforcement of this Act, an inspector has and may exercise all the powers and functions of a peace officer under sections 35, 49, 82 and 191 of the Motor Vehicles Act.

**Production of permits and bills of lading**

68.(1) Where a person is operating on a highway a motor vehicle in respect of which a certificate or permit has been issued, he shall produce the certificate or permit for inspection upon demand by an inspector.

(2) Where a person is operating a motor vehicle on a highway for the purpose of transporting goods and a certificate or permit is required to authorize him to do so under section 2, he shall upon demand by an inspector produce for inspection a copy of the bill of lading for those goods.

**Review of certificates**

69. The board shall review every certificate at least once every three years and may review any certificate at any time, and if the board is of the opinion that the authority conferred by the certificate has not been exercised fully during the period of 12 months immediately preceding the review, the board in its discretion may, subject to section 31,

- (a) revoke the certificate, if the authority was not exercised during the period, or
- (b) amend the certificate to accord with the actual exercise of the authority.

**Regulations**

70.(1) The Commissioner in Executive Council may make such regulations as he deems necessary for carrying out the provisions of this Act and, without restricting the generality of the foregoing, may make regulations concerning

- (a) the amount of deposit, insurance policy or bond required in respect of a transport public utility;
- (b) the terms and conditions of cancellation respecting such insurance or bond;
- (c) the filing of bonds and certificates of insurance;
- (d) the nature of freight that may be carried by a transport public utility;
- (e) the terms and conditions under which freight may be carried by a transport public utility and the liability of the transport public utility who carries freight;
- (f) the operation of transport public utilities for the transportation of passengers;
- (g) travel agencies, tour wholesalers and passenger carriers, with respect to bus charter trips;
- (h) trust accounts and the conditions under which trust accounts must be established and maintained;
- (i) the style and nature of contracts between the holder of a certificate and a person proposing to exercise the authority granted under the certificate on behalf of the holder;
- (j) the publication, inspection and provision of copies of decisions, orders and rules of the board, and of certificates and permits issued by the board;
- (k) routes and areas over which transport public utilities may travel;
- (l) the weight that may be carried on the top of a passenger-carrying motor vehicle operated under this Act;
- (m) the maximum weight and size of packages, freight and baggage that may be carried on motor vehicles operating under this Act;
- (n) the commission chargeable for collection of "cash on delivery" shipments;
- (o) the maintenance of depots and the location thereof;



- (p) the time schedules of motor vehicles operated under this Act over a specified route.

(2) Without limiting the generality of subsection (1), the Commissioner in Executive Council may make regulations concerning

- (a) the classification of vehicles and the respective purposes for which vehicles so classified may be operated and authorizing the operation for gain or reward of any designated class or classes of vehicles;
  - (b) the form of application and certificates;
  - (c) the issue, renewal, transfer, suspension and cancellation of certificates;
  - (d) the classification of certificates;
  - (e) the conditions under which certificates may be cancelled or suspended by the board;
  - (f) the fees that may be charged for certificates and other services provided under the Act;
  - (g) terms and conditions to which certificates shall be subject;
  - (h) the examination of motor vehicles operated under this Act, their contents and equipment by inspectors;
  - (i) equipment to be carried by motor vehicles operated under this Act and the condition and location in which the equipment shall be kept;
  - (j) the returns or statements to be filed, and providing for the examination by inspectors of all books, records and documents of an owner;
  - (k) the method of handling cash on delivery shipments and the collection and remittance of "cash on delivery" funds;
  - (l) the form or conditions in the bill of lading to be used;
  - (m) the delegation to the board of such of the powers and duties of the Executive Council Member as may be deemed necessary;
  - (n) exemptions from any of the provisions of this Act or the regulations upon such terms, limitations and conditions as may be prescribed;
  - (o) the information and manner of display of information on vehicles operated pursuant to this Act;
  - (p) directives about the circumstances and criteria the board must consider and give effect to when exercising its powers under this Act.
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# CHAPTER 118

## MOTOR VEHICLES ACT

### Interpretation

#### 1. In this Act,

“air cushion vehicle” means a vehicle designed to derive support in the atmosphere primarily from reaction against the earth’s surface resulting from the expulsion of air from the vehicle;

“bicycle” means a device propelled solely by human power upon which a person may ride, and

(a) that has two tandem wheels either of which is more than 40 centimetres in diameter, or

(b) that has three wheels, but not more than three wheels, each of which is more than 40 centimetres in diameter;

“boulevard” means that part of a highway that:

(a) is not a roadway, and

(b) is that part of the sidewalk that is not especially adapted to the use of or ordinarily used by pedestrians;

“centre line” means

(a) the centre of a roadway measured from the curbs or, in the absence of curbs, from the edges of the roadway,

(b) in the case of a highway designated by traffic control devices,

(i) as an offset centre highway, or

(ii) as a highway having a certain number of traffic lanes for traffic moving in a certain direction at all times or at specified times,

the line dividing the lanes for traffic moving in opposite directions, or

(c) in the case of a divided highway, that portion of the highway separating the roadways for traffic moving in opposite directions;

“commercial vehicle” means any motor vehicle other than a private vehicle as defined in this Act;

“cut-line” means an area cleared of natural obstructions for the purpose of constructing a roadway;

“crosswalk” means

(a) that part of a roadway at an intersection included within the connection of the lateral lines of the sidewalk on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the roadway, or

(b) any part of a roadway at an intersection or elsewhere distinctly indicated by signs, by lines or by other markings on the road surface;

“dealer” means any person who carries on the business of buying, selling or exchanging motor vehicles, trailers or semi-trailers either as principal or agent;

“driver” or “operator” means a person who drives a vehicle or who has care and control of a vehicle;

“daytime” means the period commencing at one-half hour before sunrise and ending at one-half hour after the following sunset;

- “financial responsibility card” means a card in a form approved by the superintendent of insurance;
- “highway” means any cul-de-sac, boulevard, thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and includes
- (a) a sidewalk, including a boulevard portion thereof,
  - (b) where a ditch lies adjacent to and parallel with the roadway, the ditch,
  - (c) where a highway right-of-way is contained between fences or contained in a cut-line or between a fence and one side of the roadway, all the land between the fences, all the land in the cut-line or all the land between the fence and the edge of the roadway, as the case may be,
  - (d) all the land shown on a registered plan of survey of a highway right-of-way,
  - (e) where a highway right-of-way is not shown on a registered plan of survey or is not contained between fences or cut-lines, all the land within 30 metres of the centre line;
- “intersection” means the area embraced within the prolongation or connection of, the lateral curb lines or, if none, the exterior edges of the roadways of two or more highways which join one another at an angle, whether or not one highway crosses the other;
- “judge” includes a judge of the Territorial Court and a justice of the peace;
- “leased vehicle” means a motor vehicle rented or leased with or without a driver, by a person, firm or corporation for a period exceeding 30 consecutive days;
- “licence” means a valid licence which has been issued under this Act and which has not been suspended or cancelled;
- “licensed gross weight” means the gross weight for which a vehicle is licensed;
- “moped” means a vehicle, regardless of the number of wheels it has, that
- (a) is propelled by muscular or mechanical power, or partly by muscular power and mechanical power,
  - (b) is fitted with pedals that are continually operable to propel it by muscular power,
  - (c) weighs not more than 55 kilograms,
  - (d) is fitted with a motor that is driven by electricity or has an engine displacement of not more than 50 cubic centimetres,
  - (e) is not fitted with a hand-operated or foot-operated clutch or gearbox driven by the motor and transferring power to the drive-wheel, and
  - (f) is not capable of attaining a speed of greater than 50 kilometres per hour on level ground within a distance of 1500 metres from a standing start;
- “motor cycle” means a motor vehicle mounted on two or three wheels and includes those motor vehicles known to the trade as motor scooters;
- “motor vehicle” means a vehicle that is designed to be self-propelled in any manner except solely by muscular power, but does not include
- (a) a vehicle operated exclusively upon rails,
  - (b) a vehicle operated exclusively off-highway,
  - (c) a vehicle not primarily designed to carry a load and operated exclusively for purposes of road maintenance or construction, mining, forestry or farming, or
  - (d) a traction engine or a power-assisted wheel chair;

- “nighttime” means the period commencing one-half hour after sunset and ending one-half hour before the following sunrise;
- “officer” means a member of the Royal Canadian Mounted Police or a person appointed pursuant to section 2 to administer or enforce all or any portion of this Act, including those persons employed in connection with the operation of weigh scales established pursuant to the Highways Act;
- “owner” means the person in whose name a motor vehicle or trailer is or is required to be registered under this Act;
- “peace officer” means a member of the Royal Canadian Mounted Police;
- “pedestrian” means a person on foot and includes a person in a wheel chair;
- “permit” means a valid permit which has been issued under this Act and which has not been suspended or cancelled;
- “private vehicle” means a motor vehicle
- (a) operated solely for the personal transportation of the vehicle’s owner and passengers including the conveyance of any goods or commodities which are the property of the owner and intended for the use or enjoyment of the owner or the owner’s household,
  - (b) owned and operated by a municipality, or
  - (c) owned and operated by the Government of Canada;
- “registrar” means the registrar of motor vehicles;
- “rented vehicle” means a motor vehicle rented or leased with or without a driver, by a person, firm or corporation to a person, firm or corporation on a day to day basis, but not exceeding 30 consecutive days;
- “roadway” means that part of a highway intended for use by vehicular traffic;
- “sidewalk” means that part of a highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of the highway between the curb line thereof, or the edge of the roadway where there is no curb line, and the adjacent property line, whether or not paved or improved;
- “snowmobile” means a vehicle that
- (a) is designed to be self-propelled,
  - (b) is not equipped with wheels, but in place thereof is equipped with tractor treads alone, or with tractor treads and skis, or with skis and propeller, or as a toboggan equipped with tractor treads or a propeller, and
  - (c) is designed primarily for operating over snow or ice, and is used primarily for that purpose;
- “stop” means,
- (a) when required, a complete cessation from vehicular movement, and
  - (b) when prohibited, any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device;
- “traffic control device” means any sign, signal, marking or device placed, marked or erected under the authority of the Highways Act for the purpose of regulating, warning or guiding traffic;
- “traffic control signal” means a traffic control device, whether manually, electrically or mechanically operated, by which traffic is directed to stop and to proceed;
- “traffic lane” means,
- (a) outside of a municipality, a longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles, but does not mean a parking lane, and

- (b) inside a municipality, a longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles,

whether or not the division is indicated by lines on the road surface;

“trailer” means a vehicle so designed that it may be attached to or drawn by a motor vehicle and intended to transport property or persons, and includes any trailer that is designed, constructed and equipped as a dwelling place, living abode or sleeping place, either permanently or temporarily, but does not include machinery or equipment used in the construction or maintenance of highways;

“vehicle” means a device in, upon or by which a person or thing may be transported or drawn upon a highway.

## ADMINISTRATION

### Registrar and staff

2.(1) The Commissioner in Executive Council may appoint a registrar of motor vehicles, a deputy registrar of motor vehicles and such other officers and employees as may be required for the administration of this Act.

(2) A deputy registrar shall have all the functions and powers of the registrar in the absence of the registrar or his inability to act.

(3) Any officer or employee appointed pursuant to subsection (1), except the registrar of motor vehicles or the deputy registrar, shall have only those powers and duties with respect to the administration of this Act as the Commissioner in Executive Council may prescribe.

### Microfilming of documents

3. The Executive Council Member may authorize that any document, class of document or copies of documents filed in the office of the registrar under this Act be reproduced by photograph or microfilm, and thereafter that the document or documents may be destroyed or otherwise disposed of in accordance with the provisions of the Archives Act, and the reproduction for the purposes of this Act shall be admissible in evidence in any court of law in like manner and for all purposes as are the documents so reproduced.

### Appointment of testers

4.(1) The Executive Council Member may appoint one or more qualified persons as testers of speedometers or other speed measuring devices used on motor vehicles or elsewhere for determining the speed of motor vehicles.

(2) In any prosecution under this Act a certificate bearing a date not more than 30 days prior or subsequent to the date of the offence charged in the information or complaint, signed by a tester appointed pursuant to subsection (1) and stating the result of a test of the speedometer or other speed measuring device mentioned therein, shall be received as prima facie evidence of the facts stated therein and of the authority of the person issuing the certificate without proof of appointment or signature.

## **PART 1**

### **OPERATORS' LICENCES**

#### **Licence required**

5.(1) No person shall operate a vehicle on a highway unless he is the holder of an operator's licence authorizing him to operate that class of vehicle.

(2) Subsection (1) does not apply to a person who is undergoing a driver's examination conducted by an authorized driver examiner.

(3) Subsection (1) does not apply to a person normally resident outside of the Yukon,

- (a) if he does not remain in the Yukon for more than 30 consecutive days in any year, and
- (b) if he is authorized by the laws of his place of residence to operate a motor vehicle of the type or class being operated by him.

(4) Subsection (1) does not apply to a person, not being normally resident in Canada, who

- (a) holds an international driver's licence issued outside Canada, and
- (b) does not remain in the Yukon for more than 30 consecutive days.

(5) Subsection (1) does not apply to a student as defined in the regulations if the student is authorized by the laws of his place of residence to operate a motor vehicle of the type or class being operated by him.

(6) Subsections (2) to (5) do not authorize a person to operate a vehicle on a highway at any time when he is disqualified under section 231 or 233 from holding an operator's licence.

(7) Any person who contravenes subsection (1) is guilty of an offence.

(8) In a prosecution for a contravention of subsection (1), the onus is on the accused to show that he holds an operator's licence.

#### **Application for licence**

6.(1) An application for an operator's licence shall be made to the registrar in the form and containing those particulars as prescribed.

(2) Every person to whom an operator's licence has been issued shall, in his application for a subsequent licence, state that he has been so licensed.

(3) Every person who holds a licence issued outside the Yukon authorizing him to operate a motor vehicle shall, when a licence is issued to him under this Act, surrender that licence to the registrar unless the registrar waives the surrender on the grounds that the person is not able to surrender the licence.

**Prohibitions**

7.(1) No person who is the holder of an operator's licence shall apply for or obtain another operator's licence except

- (a) for the purpose of obtaining a duplicate of an licence that has been lost or destroyed or become worn out, or
- (b) for the purpose of obtaining a replacement for an operator's licence that is about to expire.

(2) No person shall apply for or procure or attempt to procure the issuance of an operator's licence to himself

- (a) during a period when his licence is cancelled or suspended in any province or in any state, territory or the District of Columbia in the United States of America, whether or not the period for which the licence was issued has expired, or
- (b) during a period when he is disqualified from holding a licence.

**Issue of licence**

8.(1) Subject to the restrictions contained in this Act, the registrar may, in his discretion, upon receiving an application for an operator's licence and the prescribed licence fee, issue or cause to be issued, through a licence issuer, an operator's licence of the class applied for and in the prescribed form.

(2) Before issuing an operator's licence to an applicant, the registrar shall require the applicant to satisfactorily identify himself as being the person named in the application.

(3) Subject to the provisions of this Act as to suspension and cancellation, an operator's licence issued pursuant to this Part is valid only for the prescribed period.

(4) No liability attaches to the registrar for any loss caused by incorrect information contained in an application for an operator's licence, notwithstanding that the information may have been entered on the application form by some person other than the applicant.

**Learner's licence**

9.(1) A person of the age of 15 years or over who is not the holder of an operator's licence may apply to the registrar for an operator's licence in respect of the operation of any type of motor vehicle, and

- (a) upon payment of the prescribed fee, and
- (b) upon the applicant passing such examination as may be prescribed,

the applicant may be issued an operator's licence of a learner's category.

(2) An operator's licence of a learner's category shall be stated to entitle and shall entitle the licensee to drive a motor vehicle of the type specified while the licensee is accompanied by a person

- (a) who holds a subsisting licence for the operation of the vehicle being used,
- (b) who has held such licence for a period of not less than two years, and
- (c) who is seated immediately beside the licensee and is engaged in teaching him to drive or is engaged in conducting a driver's examination of the licensee.



(3) An operator's licence of a learner's category may be issued for the purpose of operating a motor cycle, under such terms and conditions as may be prescribed.

### **Examination of applicant for licence**

**10.(1)** The registrar may

- (a) refuse to allow the issuance of an operator's licence to a person unless he is satisfied by examination or otherwise as to the physical and other competency of the applicant to drive a motor vehicle without endangering the safety of the general public,
- (b) cause special conditions or restrictions, or both, to be stated upon an operator's licence,
- (c) require the holder of an operator's licence or an applicant for a licence to submit himself for a medical examination to such persons as he may designate, and
- (d) require the holder of an operator's licence to submit himself for an examination as to his competency as a driver to a person designated as an examiner.

(2) The Executive Council Member may pay any fee which he considers proper for any medical examinations required by the registrar pursuant to paragraph (1)(c).

(3) The Executive Council Member shall establish a medical review board, to consist of not less than three and not more than six members,

- (a) to act as an advisory board to the Executive Council Member with respect to all matters of health of persons bearing upon the operation of motor vehicles and physical conditions that constitute a hazard to the general public, and
- (b) to advise the Executive Council Member as to medical practitioners available for physical and mental examination of drivers and applicants for licences.

### **Minimum age**

**11.(1)** Except as provided in section 9, an operator's licence shall not be issued to any person under the age of 16 years.

(2) An operator's licence shall not be issued to any person under the age of 18 years,

- (a) unless the application is also signed by a parent or guardian of the applicant,
- (b) where the person is self-supporting and is unable to obtain the signature of a parent or guardian, unless he proves to the satisfaction of the registrar that he is self-supporting and unable to obtain such consent, or
- (c) unless he proves to the satisfaction of the registrar that he is a married person.

(3) Where a person who is under the age of 18 years has obtained an operator's licence as authorized pursuant to subsection (2),

- (a) if the parent or guardian, in writing, withdraws the consent, or
- (b) if proof is produced, satisfactory to the registrar, that the person was not self-supporting or was not married,

the registrar shall suspend or cancel the operator's licence to that person until the person attains the age of 18 years or until a new application complying with subsection (2) is made.

**Period of validity**

12.(1) An operator's licence issued under this Act shall be valid, unless otherwise suspended or revoked, for a period of,

- (a) in the case of a first application, when the application is approved, for three years from the anniversary of the applicant's birthdate nearest the date of issue, or
- (b) in the case of a renewal of a licence, for three years from the date of expiry of the preceding licence.

(2) Notwithstanding paragraph (1)(a), where the birthdate on an operator's licence is shown to be February 29, the operator's licence shall expire on March 1 of the year of expiry as indicated on the operator's licence.

(3) Notwithstanding subsection (1), the registrar may issue a licence for a period of less than three years for any reason he considers appropriate.

(4) For the purpose of this section, any licence which is not renewed within six months from the date of expiry shall be considered to be a first application.

**Exemption for officers and examiners**

13. A peace officer or a person employed by the Government of the Yukon as an officer or an examiner of drivers is exempt from the provisions of this Act while driving or operating a motor vehicle on official business in connection with

- (a) an accident or other emergency,
- (b) the inspection of a motor vehicle, or
- (c) the examination of a driver.

**Temporary air brake endorsement**

14. Notwithstanding the provisions of this Act, the registrar may issue a temporary certificate to those persons applying for an air brake endorsement to their operator's licence for such period and under such conditions as he considers appropriate.

**Licence to be signed**

15. A person to whom an operator's licence is issued shall write his usual signature in the space provided for that purpose, and until the licence has been so signed it is not valid.

**Change of address or name**

16. Upon every change of his address or change of name, or both, the person to whom an operator's licence is issued shall, in the manner prescribed, forthwith notify the registrar in writing of the change.

**Changes in health**

17.(1) Any person who is making application for an operator's licence shall disclose to the registrar any disease or disability which may interfere with his safe operation of a motor vehicle.

(2) Any holder of an operator's licence who discovers that he is suffering from a disease or disability which might interfere with his safe operation of a motor vehicle shall disclose the circumstances to the registrar prior to operating any motor vehicle.

(3) A medical practitioner shall, without acquiring any liability thereby, report to the registrar any medical information relative to the health of a person holding or applying for an operator's licence where the practitioner believes that the condition in relation to which the information is given may adversely affect that person's operation of a motor vehicle.

(4) An optometrist shall, without acquiring any liability thereby, report to the registrar any defect in vision of any person which the optometrist believes may interfere with the safe operation of a motor vehicle by that person.

(5) A person of the age of 70 years or over who applies for an operator's licence or renews an operator's licence shall

- (a) file a medical examination certificate in the prescribed form, completed and signed by a physician, and
- (b) submit to a vision screening examination by a driver examiner,

and, based on the result of the medical report and the vision screening report required by this section and subject to section 10, the registrar may issue a licence under those conditions and for any period that he considers advisable, and require ensuing reports and visual screening reports at such intervals as he considers necessary.

(6) A medical examination certificate filed under this section must have been completed within 180 days prior to the date of filing.

### **Duplicate licence**

18.(1) Where a person has obtained a duplicate of an operator's licence and subsequently again comes into possession of the operator's licence believed to have been lost or destroyed, he shall return the duplicate as soon as possible to the registrar, and no person shall have in his possession both an operator's licence and a duplicate thereof issued under this Act.

(2) Where a person has obtained a duplicate operator's licence replacing a supposedly lost or destroyed duplicate operator's licence and subsequently again comes into possession of the duplicate operator's licence believed to have been lost or destroyed, he shall return one of the duplicates as soon as possible to the registrar, and no person shall have in his possession more than one duplicate of an operator's licence.

### **Disqualification from holding licence**

19.(1) Where, pursuant to this Act,

- (a) the registrar refuses to issue an operator's licence to a person, or
- (b) a person is convicted of operating a motor vehicle without an operator's licence,

the registrar may at any time thereafter issue an order for any period and subject to any conditions specified in the order declaring that person to be disqualified from obtaining an operator's licence or driving a motor vehicle or any other specified class of vehicle on a highway.

(2) A person in respect of whom an order has been made under subsection (1) who drives a motor vehicle or other vehicle on a highway in contravention of that order is guilty of an offence.

#### **Duration of suspension or disqualification**

**20.(1)** Where by or under this Act or by any order or judgment made under this or any other Act,

- (a) the operator's licence of a person is suspended, or
- (b) a person is disqualified from holding an operator's licence,

then, notwithstanding that the period of suspension or disqualification has expired, the licence remains suspended or the disqualification remains in effect, as the case may be, until such time as the person satisfies the registrar, by examination or otherwise, of his physical or other competency to drive a motor vehicle without endangering the safety of the general public.

(2) Notwithstanding subsection 5(1), where the operator's licence of any person is suspended by or under this Act or by an order or judgment made under this Act, that person may nevertheless operate on a highway implements of husbandry or industrial equipment designed primarily for construction, maintenance, land clearing, ditching or other related tasks that are not required to be licensed under this Act.

(3) Where a person is prohibited under this Act from driving a vehicle on medical grounds, the registrar may also prohibit him from operating implements of husbandry or industrial equipment of the kind mentioned in subsection (2) on a highway.

(4) This section applies to suspensions by accumulation of demerit points, notwithstanding that the term of any such suspension has not expired.

#### **Suspension continues when licence expires**

**21.(1)** Where, under this Act, the operator's licence of a person is suspended or cancelled, the suspension or cancellation continues in full effect notwithstanding the expiration of the licence during the period of the suspension or cancellation.

(2) Where, under this Act, an operator's licence is suspended or cancelled, the suspension or cancellation operates to suspend or cancel any operator's licence held by that person during the period of suspension, whether so stated or not.

#### **Notice of suspension, cancellation or disqualification**

**22.(1)** Where the registrar or the Driver Control Board suspends or cancels a person's licence, certificate of registration or permit, or makes an order disqualifying a person from holding an operator's licence, the registrar or Driver Control Board, as the case may be, shall notify that person of the suspension, cancellation or disqualification.

(2) Where a judge is satisfied that the registrar or the Driver Control Board has made a reasonable attempt to notify the person of the suspension, cancellation or disqualification, and that the person is evading delivery of the notification, he may order that it shall be sufficient notification for the registrar to send a written notice by certified mail to that person at his last recorded address as shown by the records of the registrar.

(3) A person who has been notified of the suspension or cancellation of his operator's licence or of his disqualification from holding an operator's licence shall, as soon as possible after he receives the notice, deliver the operator's licence to the registrar, a peace officer or a judge.

### **Driver Control Board**

23.(1) There shall be a board to be called the Driver Control Board, consisting of a chairperson and four other members appointed by the Commissioner in Executive Council.

(2) Two members of the board constitute a quorum.

(3) The members of the board shall be paid remuneration in the amount determined by the Commissioner in Executive Council.

(4) The Commissioner in Executive Council may make regulations governing the procedures and operation of the board, the conduct of its hearings and generally respecting the duties and functions of the board and any matter incidental thereto.

### **Functions of the Driver Control Board**

24.(1) At any time he considers an inquiry should be made into whether any person should be permitted to hold an operator's licence, a judge or the registrar may report the person to the Driver Control Board and the board, after due inquiry and in the interest of public safety, may

- (a) suspend the operator's licence of the person for a definite or indefinite period of time,
- (b) prescribe any measure or course of remedial education or treatment as a condition of possession of an operator's licence, and
- (c) prescribe terms and conditions for the possession of an operator's licence.

(2) Upon receipt of a report pursuant to subsection (1), the board shall notify the person in respect of whom the report has been made as to whether the board proposes to act upon the report or not and, where the board proposes to act upon the report, inform such person of the date, being not less than ten days from the date of notice, and place of the next meeting of the board at which the report is to be considered, and the person shall be entitled to make representations at the meeting to the board and be heard in person, or by counsel or agent.

(3) The board shall not suspend or restrict an operator's licence of a person without giving him at least ten days notice in writing and giving him an opportunity to be heard in person or by counsel or agent.

(4) In making a decision the board may take into consideration the person's accident record, conviction record, driver attitude, driving skill and knowledge, driving disabilities and any other factors it considers relevant.

### **Appeal from decision of registrar**

25.(1) A person who has been refused a licence by the registrar, or whose licence has been suspended or cancelled by the registrar or the Executive Council Member, may appeal the refusal, suspension or cancellation, as the case may be, to the Driver Control Board.

(2) A person who wishes to appeal a decision of the registrar under this section shall, within 30 days of the date that person was served with the notification that he was refused a licence or that his licence was cancelled or suspended, serve the Driver Control Board with a notice of appeal.

(3) Upon being served with a notice of appeal under subsection (2), the Driver Control Board shall, within 30 days of being served with the notice of appeal, hear the appeal.

(4) Upon hearing an appeal under this section, the Driver Control Board may confirm a decision of the registrar, order that the licence be issued, remove or vary the suspension or reinstate the cancelled licence.

**Summoning person before board**

26.(1) The attendance of a licensee or witness before the board may be enforced by a notice issued by a member of the board requiring the licensee or witness to attend and stating the time and place at which attendance is required.

(2) Any member of the board may administer an oath to any person who is to give evidence before it.

(3) A person

- (a) who fails to attend before the board in obedience to a notice to attend, or
- (b) who, being a witness, refuses to be sworn or to answer any questions directed to be answered by the person presiding at a hearing of the board,

is liable to attachment upon application to a judge and may be proceeded against as for a civil contempt of that court.

(4) Subject to the regulations, testimony may be adduced before the board in such manner as the board considers proper and the board is not bound by the rules of law concerning evidence applicable to judicial proceedings.

**Review and appeal**

27.(1) Where the board has suspended the operator's licence of a person for an indefinite period or for a period in excess of six months, the person may apply to the board for a review of the suspension and the board shall, within 30 days, give him an opportunity to be heard.

(2) No person may apply for a review under subsection (1) more often than once every six months.

(3) On a review under subsection (1), the board may confirm, modify or set aside any earlier decision by it.

(4) Any person who considers himself aggrieved by a decision of the board may, within 30 days after the decision of the board is sent to his latest address as recorded with the board, appeal the decision of the board to a judge.

(5) The judge may confirm, modify or set aside the decision of the board.

**Use of licences**

28.(1) No person shall use or be in possession of

- (a) an operator's licence belonging to any other person,
- (b) an operator's licence that has been cancelled or suspended, or
- (c) any document purporting to be an operator's licence,

for unlawful purposes.

(2) No person who holds an operator's licence shall permit any other person to use or be in possession of his licence, for unlawful purposes.

(3) No person shall hold in his own name more than one operator's licence.

(4) Subsection (3) does not apply with respect to an international drivers licence.

**Misuse of licence**

29. No person shall

- (a) mutilate, deface or alter an operator's licence, or
- (b) possess an illegible, mutilated, altered or defaced operator's licence.

**Offence to contravene conditions**

30. A person who operates a motor vehicle on a highway

- (a) of a type that he is not authorized to operate under the class of operator's licence that he holds, or
- (b) contrary to a restriction or condition on his licence,

is guilty of an offence.

**Driver to be disqualified**

31.(1) Except as provided in this Act, no person shall permit anyone who is not the holder of an operator's licence to drive a motor vehicle on a highway.

(2) Except as provided in this Act, no person shall permit anyone to drive on a highway a motor vehicle other than one of the type that his licence permits him to drive.

**Renting to unqualified driver**

32. No person shall hire or let for hire a motor vehicle unless the person by whom the motor vehicle is to be driven is authorized under the provisions of this Act to drive the motor vehicle.

**Learner to be accompanied**

33. Subject to section 9, no person shall permit any person who is the holder of an operator's licence of a learner's category to operate a motor vehicle.

**Use of learner's licence**

34.(1) No person who is the holder of an operator's licence of a learner's category shall operate a motor vehicle contrary to section 9.

- (2) A person who is engaged in teaching another person to drive and
- (a) who does not hold a licence for the operation of the vehicle being used, and
  - (b) who has not held such licence for a period of not less than two years,

is guilty of an offence.

**Production of licence**

35.(1) Every driver of a motor vehicle shall carry his operator's licence with him at all times during which he is driving a motor vehicle and shall produce it for inspection upon demand by any peace officer.

(2) Every person while engaged in instructing a student driver shall carry his operator's licence with him and shall produce it for inspection upon demand by any peace officer.

(3) Where a person produces to a peace officer an operator's licence that is illegible, mutilated, defaced or altered, the peace officer shall require that person to produce a properly issued duplicate licence within a reasonable time.

**Failure to produce licence**

36. A person who, on the demand of a peace officer

- (a) fails to produce his operator's licence as required by subsection 35(1) or (2), or
- (b) fails to produce a duplicate licence as required by subsection 35(3),

is guilty of an offence.

**Regulations**

37. The Commissioner in Executive Council may make regulations

- (a) prescribing the form of application for operator's licenses, and changes thereon;
- (b) prescribing the period or periods during which an operator's licence is valid;
- (c) prescribing fees payable by applicants for operator's licences;
- (d) prescribing the terms and conditions for operating a motor cycle on authority of an operator's licence of a learner's category;
- (e) classifying operator's licenses into categories for the purpose of controlling the use of licences according to the qualifications of the driver;
- (f) prescribing the cases in which an examination as to competency as a driver may be dispensed with and the cases in which it may not be dispensed with;
- (g) establishing a Medical Review Board;
- (h) prescribing forms of medical certificates;
- (i) establishing a Driver Control Board.

## PART 2

### REGISTRATION OF MOTOR VEHICLES AND TRAILERS

**Requirement of registration**

38.(1) Subject to this Act,

- (a) no person who is the owner of a motor vehicle or trailer shall operate or suffer or permit any other person to operate the motor vehicle or trailer on a highway at any time during which that owner is not the holder of a subsisting



certificate of registration or permit issued pursuant to this Act for the motor vehicle or trailer, and

- (b) no person shall operate on a highway any motor vehicle or trailer in respect of which there is not for the time being a subsisting certificate of registration issued pursuant to this Act.

(2) The Commissioner in Executive Council may exempt any vehicle or class of vehicles from registration under this Act.

(3) Subject to Part 4, a private vehicle in respect of which a substituting certificate of registration has not been issued under this Act may be operated on a highway where

- (a) the vehicle is registered pursuant to the laws of a place other than the Yukon,
- (b) the registration number plates or other identification issued under the laws referred to in paragraph (a) is displayed on the vehicle,
- (c) the vehicle has not been in the Yukon for a continuous period of more than 60 days in the preceding 12 months,
- (d) the person in whose name the vehicle is registered under the laws referred to in paragraph (a) is not a resident of the Yukon,
- (e) the vehicle is not a rented vehicle, and
- (f) the vehicle is not leased, under a lease for a period of more than 30 days, to a person who is a resident of the Yukon.

(4) A person who operates a motor vehicle or trailer upon a highway without a subsisting certificate of registration for that motor vehicle or trailer is guilty of an offence.

(5) A person who knowingly operates a motor vehicle on a highway

- (a) while the certificate of registration or permit of the motor vehicle is cancelled, or
  - (b) while the certificate of registration of the motor vehicle is under suspension,
- is guilty of an offence.

(6) For the purposes of subsection (3)

- (a) “private vehicle” includes a trailer but does not include any vehicle that is used by any person in connection with the carrying-on of any business in the Yukon, and
- (b) a person shall be deemed to be a resident of the Yukon where
  - (i) he makes his home in the Yukon and is ordinarily present in the Yukon,
  - (ii) he earns income from employment in the Yukon, or
  - (iii) he carries on a business in the Yukon.

(7) A person shall be deemed not to have contravened subsection (1) during the period of seven days immediately following the day on which a vehicle is brought into the Yukon for the first time in the previous 12 months where

- (a) the vehicle is registered pursuant to the laws of a place other than the Yukon,
- (b) the registration number plates or other identification issued under the laws referred to in paragraph (a) is displayed on the vehicle,

- (c) the vehicle is not a rented vehicle, and
- (d) a certificate of registration is issued under this Act in respect of the vehicle within the seven day period.

### **Miniature motor vehicles**

39.(1) Miniature motor vehicles of the type known to the trade as “go carts” and three or four-wheeled vehicles of like nature, and any other three or four-wheeled vehicle which, because of its novel size or operating characteristics, the registrar considers would present a hazard to other highway users, shall not be registered as motor vehicles.

(2) Notwithstanding the provisions of subsection (1), a miniature motor vehicle designed primarily for the use of a physically handicapped person may be operated on a highway if the vehicle

- (a) is registered in the name of a physically handicapped person,
- (b) is operated solely by a physically handicapped person who has a subsisting operator’s licence issued under this Act, and
- (c) is equipped in compliance with the requirements of this Act or the regulations thereunder relating to motor vehicles.

### **Reciprocal agreements concerning licensing**

40.(1) The Commissioner in Executive Council may make or authorize to be made with the government of any other province, state, district or territory a reciprocal arrangement or agreement

- (a) exempting any class or classes of motor vehicle owners ordinarily resident in that other province or territory from the application of this Act as to
  - (i) the registration and licensing of motor vehicles, and
  - (ii) the carrying and displaying upon motor vehicles of licences and number plates, and
- (b) providing for the granting by that other province, state, district or territory of similar exemptions and privileges with respect to the motor vehicle owners ordinarily resident in the Yukon.

(2) Every arrangement or agreement and the exemptions thereunder made under subsection (1) shall be

- (a) subject to the condition that no person shall be entitled to any exemption or privilege in respect of a motor vehicle in the Yukon unless the owner has complied with the law of his place of residence as to the registration and licensing of motor vehicles and carries or causes to be carried on the motor vehicle the certificate or licence and number plates prescribed by the law of that place, and
- (b) subject to all further conditions and restrictions set out in the arrangement or agreement and to cancellation by the Commissioner in Executive Council.

### **Application for registration**

41.(1) An application for the registration of a motor vehicle or trailer shall be made to the registrar in the form and giving those particulars which the Commissioner in Executive Council prescribes.

(2) No person shall apply for, procure or attempt to procure the registration of a motor vehicle during a period when the registration of the motor vehicle or the certificate of registration issued therefor is suspended or cancelled.

(3) No person shall apply for, procure or attempt to procure the registration of a vehicle in the name of a non-existent corporation.

(4) Where a vehicle is registered in the name of a non-existent corporation the person who signed the application for registration shall, for the purposes of this Act, be deemed to be the owner of the vehicle.

(5) No liability attaches to the registrar for any loss caused by incorrect information contained in an application for registration of a motor vehicle or trailer, notwithstanding that the information may have been entered on the application form by some person other than the applicant.

### **Leased vehicles**

42.(1) Every lessee of a motor vehicle exceeding a registered gross weight of 9100 kilograms shall file with the registrar in the name of the lessee a copy of the lease agreement.

(2) Every leased motor vehicle exceeding a registered gross weight of 9100 kilograms shall be registered in the name of the lessee.

(3) Upon expiry or cancellation of a lease agreement, the lessees shall forthwith notify the registrar in writing of the date of expiry or cancellation, and return the registration and licence plates.

(4) The lease agreement must stipulate that the lessee is responsible for all fees and penalties due under the provisions of the Motor Vehicles Act, the Workers Compensation Act, the Employment Standards Act, the Health Care Insurance Plan Act, and the Highways Act.

(5) The operator of a leased motor vehicle required to be registered pursuant to subsection (2) shall carry a copy of the lease in the vehicle at all times.

(6) The registrar may suspend the certificate of registration of any motor vehicle found to be operating in contravention of this section.

### **Regulations respecting trailers**

43. The Commissioner in Executive Council may,

- (a) for the purpose of registration, classify trailers into such classes as he considers convenient having regard to carrying capacity, construction, use or any other circumstances;
- (b) fix the fee payable on registration of all or any class of trailers;
- (c) fix different fees in respect of different classes of trailers at such amounts as he considers proper;
- (d) exempt any class of trailer from the requirement of registration;
- (e) make regulations as to the issuance, form and notice of registration plates and the display of such plates on the trailer.

**Certificates of registration**

44.(1) Upon receipt of an application for the registration of a motor vehicle or trailer and upon payment of the prescribed registration fee, the registrar may, subject to the restrictions in this Act, issue a certificate of registration.

(2) Before issuing a certificate of registration to an applicant, the registrar or a licence issuer may require

- (a) proof of ownership by the person named in the application,
- (b) production of a financial responsibility card issued in respect of the motor vehicle for which registration is sought, and
- (c) production of a certificate of inspection approval in respect of the motor vehicle for which registration is sought.

(3) Subject to the provisions of this Act as to suspension, cancellation and expiry, a certificate of registration issued pursuant to this Part is valid for the period prescribed by the regulations.

**Serial number**

45.(1) Except as provided by this section, a motor vehicle, of which the manufacturer's serial number or similar identifying mark has been obliterated, shall not be registered.

(2) A person who has in his possession any motor vehicle in the condition described in subsection (1) may file with the registrar satisfactory proof of the ownership of the vehicle and the registrar may thereupon grant permission to cut, impress, emboss or attach permanently to the vehicle a special identifying number or mark, which thereafter shall be sufficient for the purpose of registration of the vehicle.

**Transfer of registration**

46.(1) This section applies to the registration of all vehicles registered pursuant to this Act.

(2) Where the ownership of a registered vehicle passes from the registered owner to any other person, whether by an act of the owner or by operation of law, the registration of the vehicle expires forthwith and the registered owner shall remove the licence plates from the vehicle and retain them in his possession.

(3) At any time during the registration year for which the licence plates are issued, the person to whom they are issued may apply to the registrar to use the plates on another vehicle to be registered in his name, and if the application is made within 14 days after acquiring ownership of the other vehicle, notwithstanding sections 38 and 58, that person may display the plates on the newly acquired vehicle and operate or permit another person to operate the vehicle on a highway during that 14 day period.

(4) Where the ownership of a registered vehicle passes from the registered owner, either by an act of the owner or by the operation of law, to another person, that other person, if the licence plates issued to the registered owner come into his possession, shall return the plates forthwith to the registrar.

(5) Notwithstanding anything in this section, where the ownership of a registered vehicle passes by reason of the death of the registered owner, the registration of the vehicle for that registration year does not expire and the following persons may during the remainder of that registration year continue to operate the vehicle under the registration of the deceased registered owner:

- (a) the spouse of the deceased registered owner if normally residing in the same dwelling premises at the time of his death;
- (b) any person having proper temporary custody of the vehicle until grant of probate or administration to the personal representative of the deceased registered owner;
- (c) the personal representative of the deceased registered owner.

#### **Transfer of trailer licence plates**

47.(1) The registered owner of a trailer may transfer a trailer licence plate from one to another of his own trailers upon completion of the forms supplied by the registrar and payment of the prescribed transfer fee, but trailer licence plates shall not be transferred from one owner to another.

(2) Notwithstanding subsection (1), a trailer licence may be issued to a manufacturer of, or dealer in, trailers upon payment of the prescribed fee, and the licence plate issued shall apply to any trailer which the said manufacturer or dealer may, from time to time during the term of said licence, hold for sale but not for hire.

#### **Misuse of certificate of registration**

48. No person shall

- (a) mutilate, deface or alter a certificate of registration issued under this Act,
- (b) possess or permit the possession by another person of an illegible, mutilated, altered or defaced certificate of registration.

#### **Production of certificate of registration**

49.(1) Every driver of a motor vehicle shall produce the certificate of registration of the vehicle for inspection upon demand by any peace officer.

(2) Where the vehicle is being operated

- (a) with the licence plates issued pursuant to section 54,
- (b) by an appraiser who has custody of the vehicle for the purpose of appraisal, or
- (c) by a mechanic who has custody of the vehicle for the purpose of repairs,

the peace officer shall give the driver of the vehicle reasonable time within which to produce the certificate of registration of the vehicle.

(3) Where a person produces to a peace officer a certificate of registration that is illegible, mutilated, defaced or altered, the peace officer shall require that person to produce a properly issued replacement certificate of registration within a reasonable time.

**Failure to produce certificate of registration**

50. A person who, on the demand of a peace officer,

- (a) fails to produce a certificate of registration as required by subsection 49(1) or (2), or
- (b) fails to produce a replacement certificate of registration as required by subsection 49(3),

is guilty of an offence.

**Change of address or name**

51. Upon every change of his address or change of name, the person to whom a certificate of registration is issued shall, in the manner prescribed, in writing notify the registrar of the change.

**Issue of licence plates**

52.(1) At the time of the issue of a certificate of registration the registrar shall issue to the owner of the registered vehicle licence plates in the number and of the design prescribed.

(2) The registrar shall charge the prescribed fees for each licence plate or set of two licence plates issued by him.

(3) Licence plates shall be of such type and color as are prescribed.

(4) Every licence plate issued under this Act remains the property of the Government of the Yukon and the person in possession of it shall return it to the Executive Council Member whenever he so requires for cause.

(5) Where a licence plate is lost, destroyed or defaced, the owner of the vehicle for which it was issued,

- (a) upon application to the registrar for a replacement accompanied by the prescribed fee, and
- (b) upon returning to the registrar the remaining plate, if any, and in the case of a defacement, the defaced plate,

may be issued a replacement licence plate or set of licence plates, as the case requires.

**Validation of licence plates**

53. Where the regulations authorize the use of a licence plate for more than one year if validated by a validating tab, marker or other sign, every reference in this Act to a licence plate shall, with all necessary modifications, be deemed to include a reference to a validating tab, marker or other sign unless the regulations have made other provisions in that regard.

**Dealers' plates on other vehicles**

54.(1) Licence plates may be issued pursuant to this section to manufacturers of, and dealers in, vehicles and to persons engaged in the business of servicing vehicles kept for sale by manufacturers and dealers.

(2) The licence plates issued for use on vehicles kept for sale by manufacturers or dealers shall bear a word, letter or other device sufficient to distinguish them from licence plates issued for other vehicles.

(3) Licence plates issued pursuant to this section are valid for only one place of business, but where the person to whom any plates are issued has more than one place of business in the same municipality, all those places shall, for the purpose of this subsection, be considered one place of business.

(4) The fee required by the Commissioner in Executive Council on the issue of licence plates under this section may be of a fixed amount or may vary with the number of licence plates issued to the person.

#### **Use of dealers' plates**

**55.(1)** No person shall attach a licence plate issued pursuant to section 54 to any vehicle

- (a) that is not kept for sale by a manufacturer or dealer,
- (b) that is not used in the promotion of sales by a manufacturer or dealer or any employee or agent of either of them, or
- (c) that is not for the time being in custody and control of a manufacturer or dealer or any employee or agent of either of them for the purposes of testing or servicing.

(2) No person shall attach a licence plate issued pursuant to section 54 to any vehicle

- (a) that is kept for hire, or
- (b) that is carrying freight.

(3) No person shall use or operate on a highway a motor vehicle to which a licence plate is attached contrary to this section.

(4) In this section, "freight" means anything that may be conveyed in or on a motor vehicle but does not include passengers or anything that is the property of the owner of the vehicle or his employee or agent and that is intended for personal use by any one or more of them.

#### **Licensing of trailers**

**56.(1)** No person engaged in the business of renting or leasing of trailers shall lease or rent any trailer in the Yukon without first having affixed thereto a trailer licence plate issued under this Act.

(2) A trailer licence plate may be issued to the owner of a public service vehicle engaged in the business of towing trailers, who may attach the plate to any trailer towed by his public service vehicle or, in the case of individual trips, a temporary operation permit may be issued in lieu of a trailer licence plate.

(3) The trailer licence plate or temporary operation permit shall be placed at the rear of the trailer, in such a position that the lower edge of the plate or permit is not lower than the rear axle of the trailer.

**Removal of plates on sale of vehicle**

57. Where a dealer in vehicles takes possession of a vehicle for the purpose of selling it on behalf of the owner and current licence plates have been issued for the motor vehicle,

- (a) the owner of the vehicle shall remove the licence plates and retain them in his possession, and
- (b) the dealer shall not accept the motor vehicle until the licence plates have been removed.

**Display of licence plates**

58. No person shall

- (a) attach to a motor vehicle or trailer, or
- (b) operate a motor vehicle or trailer to which is attached,

a licence plate other than a licence plate authorized for use on that motor vehicle or trailer.

**Licence plate to be attached**

59. No person shall operate or park a motor vehicle or trailer upon a highway unless each licence plate required is attached to the vehicle in the location and in the manner prescribed by the regulations.

**Legibility of licence plates**

60.(1) The operator of a motor vehicle or trailer shall at all times keep any licence plate required to be attached to the vehicle secured in a manner and maintained in a condition so as to be clearly visible and readable and unobscured by any part of the vehicle or its attachments or load or otherwise.

(2) No person shall be considered to contravene subsection (1) by reason only that a trailer is attached to the rear of a motor vehicle that he owns or operates.

**Expired licence plates**

61. No person shall operate a motor vehicle or trailer on a highway with an expired licence plate displayed thereon.

**Misuse of licence plates**

62. No person shall

- (a) deface or alter any licence plate issued under this Act,
- (b) use or permit the use of any defaced or altered licence plate, or
- (c) permit any licence plate issued to him to be used in contravention of this Act.

**Seizure of licence plates**

63. Any officer who has reason to believe and does believe that a motor vehicle is carrying licence plates

- (a) that were not issued for that motor vehicle, or
- (b) that, although issued for the motor vehicle, were obtained by false pretences,

may take possession of those licence plates and retain them until the facts concerning the issue of those licence plates have been determined.



## PART 3

### MISCELLANEOUS

#### **Enforcement and suspension of registration**

**64.(1)** The Executive Council Member may suspend or cancel a certificate of registration or a permit issued under this Act for a contravention of this Act, the Fuel Oil Tax Act, the Motor Transport Act, the Highways Act or the regulations under those Acts.

(2) Any person who knowingly makes any false statement of fact in any application, declaration or other document required by this Act, by the regulations or by the Executive Council Member in order to procure the issue of an operator's licence or a certificate of registration or permit is guilty of an offence.

(3) Where a person who is not a resident of the Yukon is convicted of contravening any provision of this Act, the Executive Council Member

- (a) may by order prohibit that person from driving in the Yukon until the fine imposed on the conviction has been satisfied, and
- (b) may notify the proper authorities of the jurisdiction where the person resides of the non-satisfaction of the fine imposed.

(4) Where a resident of the Yukon

- (a) is convicted in any other jurisdiction in Canada of contravening a provision similar to a provision in this Act, and
- (b) fails to satisfy the fine imposed upon the conviction,

the Executive Council Member may suspend the operator's licence of the person until such time as he satisfies the fine so imposed.

(5) Where an operator's licence, a certificate of registration or a permit issued under this Act is suspended or cancelled pursuant to subsection (1), a person to whom it was issued shall immediately return

- (a) the operator's licence,
- (b) the certificate of registration and licence plates, or
- (c) the permit,

as the case may be, to the registrar.

(6) Where a person fails to return an operator's licence, licence plate, certificate of registration or permit as required by subsection (5), a peace officer acting at the request of the Executive Council Member shall secure possession thereof and return the suspended article or articles to the office of the registrar.

(7) A person

- (a) who fails to return an operator's licence, licence plate, certificate of registration or permit as required by subsection (5), or
- (b) who fails to deliver an operator's licence, licence plate, certificate of registration or permit to a peace officer acting under subsection (6),

is guilty of an offence.

**Notice of cancellation of privileges of non-resident**

65. Where, pursuant to this Act, a person who is not a resident of the Yukon loses, by suspension or cancellation, the privilege of driving a motor-vehicle in the Yukon, if the person resides in another province or in a state, territory, or the District of Columbia in the United States, the registrar, if he has notice in writing of such suspension or cancellation, shall forthwith send to the proper officer in charge of the registration of motor vehicles and the licensing of drivers in that province or in that state, territory or district a notice of such cancellation or suspension containing a brief statement of the reasons therefor, together with the driver's licence or operator's licence that has been suspended or cancelled if the driver's licence or operator's licence is in the possession of the registrar.

**Regulations**

66. The Commissioner in Executive Council may make regulations

- (a) with respect to licence plates,
  - (i) authorizing the number of licence plates to be issued,
  - (ii) authorizing the use of a licence plate for more than one year if validated for each such year by a validating tab, marker or other sign issued by the registrar,
  - (iii) prescribing the form and design of licence plates, where they are to be attached to vehicles, and the manner of display,
  - (iv) prescribing the form and design of validating tabs, where they are to be attached to licence plates, and the manner of display,
  - (v) prescribing any requirements and prohibitions necessitated by the use of any number of licence plates authorized under this section and by the use of validating tabs, markers or other signs in conjunction with licence plates, and
  - (vi) prescribing the terms and conditions under which permits may be issued in lieu of vehicle registration and licence plates;
- (b) prescribing fees for licences, permits and certificates required pursuant to this Act or the regulations;
- (c) prescribing fees for supplying information relating to the licensing of persons and vehicles and for supplying copies of, or extracts from, driving records and accident reports and for services provided in respect of matters under this Act;
- (d) establishing and implementing a demerit point system for drivers of motor vehicles based on convictions for offences therein specified and providing under the system for the suspension or cancellation of an operator's licence;
- (e) prescribing forms;
- (f) fixing the times at which, and the persons to whom, returns are to be made;
- (g) prescribing terms and conditions governing the registration of motor vehicles;
- (h) governing, restricting or prohibiting the registering and licensing of motor vehicles in the name of a person under any specified age;
- (i) governing the registration and operation of motor vehicles kept for sale by manufacturers of motor vehicles and dealers in motor vehicles;
- (j) requiring and governing the marking on any class of motor vehicles of the displacement or horsepower of the motors thereof.

## PART 4

### FINANCIAL RESPONSIBILITY

#### Interpretation

67.(1) In this Part,

“insurer” means a person licensed to carry on the business of automobile insurance in the Yukon;

“policy” means an owner’s or non-owner’s motor vehicle liability policy in conformity with Part 6 of the Insurance Act, but where, in the normal course of its business, an insurer does not issue such a policy in respect of the type of motor vehicle to be insured, “policy” means a general liability insurance policy issued by a person licensed to carry on the business of issuing that insurance in the Yukon;

“state of the United States of America” includes the District of Columbia.

(2) Notwithstanding section 1, in this Part “motor vehicle” means a vehicle that is designed to be self-propelled in any manner except solely by muscular power, but does not include a motor power assisted wheel chair.

(3) Nothing in this Part shall be construed in such a way as to affect, diminish or derogate from any right of action, remedy or security that any person may have either at law or equity.

#### Minimum liability insurance

68.(1) Every person shall, in respect of any motor vehicle owned by him and operated on a highway, take out and maintain in force a policy of motor vehicle liability insurance against loss or damage resulting from bodily injury or death and loss of and damage to property occurring in respect of any one accident to the limit of at least the amount specified in subsection 146(1) of the Insurance Act, exclusive of interest and costs, and any claim received out of bodily injury or death shall have priority over any claim received out of loss of or damage to property.

(2) In any prosecution for a violation of any section in this Part, the onus is on the accused person to prove that a valid and subsisting liability policy of insurance was in force in respect of the vehicle, and where a person is required to produce a motor vehicle liability insurance card, the onus is on the accused person to prove that, at the time he was required to produce the card, there was in force a valid and subsisting motor vehicle liability policy of insurance in respect of the vehicle described in the card.

#### Failure to satisfy judgment

69.(1) Where

- (a) a judgment for damages arising out of a motor vehicle accident is rendered against a person by a court in the Yukon or in any other province, and
- (b) that person fails, within 15 days from the date upon which the judgment became final, to satisfy the judgment,

the Executive Council Member, subject to sections 70 and 71, may suspend the operator’s licence of that person and may suspend the registration of any or every motor vehicle registered in the name of that person.

(2) Where an operator's licence and registration are suspended under subsection (1), the licence and registration remain suspended and shall not at any time thereafter be renewed, nor shall any new operator's licence be issued to nor any new registration be made by, the person liable until the judgment is satisfied or discharged, otherwise than by a discharge in bankruptcy, to the extent of at least the amount specified in subsection 146(1) of the Insurance Act, exclusive of interest and costs, where the judgment arises out of a motor vehicle accident.

(3) Upon the Commissioner in Executive Council being satisfied that any state of the United States of America has enacted legislation similar in effect to subsection (1) and that the legislation extends and applies to judgments rendered and become final against residents of that state by any court of competent jurisdiction in the Yukon, the Commissioner in Executive Council may, by order, extend and apply the provisions of subsection (1) or (2) to judgments rendered and become final against residents of the Yukon by any court of competent jurisdiction in the state.

(4) If, after complying with subsection (2), any other judgment against the same person for any accident that occurred before subsection (2) was complied with is reported to the registrar, the operator's licence and every registration of a motor vehicle of the person shall again be suspended and shall remain suspended until the judgment is satisfied and discharged, otherwise than by a discharge in bankruptcy, to the extent set out in subsection (2).

(5) If any person to whom subsection (1) applies is not a resident of the Yukon,

- (a) the privilege of operating a motor vehicle in the Yukon, and
- (b) the privilege of operating in the Yukon any motor vehicle registered in his name,

is suspended and withdrawn forthwith by virtue of the judgment until he has complied with this section.

(6) Where an operator's licence or a certificate of registration of a motor vehicle has been suspended as a result of a judgment obtained against a person who was not driving the vehicle involved in the accident, the Executive Council Member in his absolute discretion may reinstate the licence or certificate of registration or both, notwithstanding any other provision of this section.

### **Payment of judgment by instalments**

70.(1) A judgment debtor to whom this Part applies may on due notice to the judgment creditor apply to the court in which the trial judgment was obtained for the privilege of paying the judgment in instalments, and the court may, in its discretion, so order, fixing the amounts and times of payment of the instalments.

(2) Notwithstanding subsection (1), a judgment debtor and the judgment creditor may enter into an agreement for the payment of the judgment in instalments.

(3) While the judgment debtor is not in default in payment of the instalments, he shall be deemed not in default for the purposes of this Part in payment of the judgment, and the Executive Council Member in his absolute discretion may restore the operator's licence and registration of the judgment debtor, and the operator's licence and registration shall again be

suspended and remain suspended as provided in section 69 if the Executive Council Member is satisfied of default made by the judgment debtor in compliance with the terms of the court order or of the agreement.

**Application for relief**

71.(1) Where a person becomes liable to suspension of his operator's licence or motor vehicle registration because of a final judgment being rendered against him outside the Yukon for damages arising out of a motor vehicle accident, he may make an application for relief to a judge of the Supreme Court.

(2) Where an application for relief is made to a judge of the Supreme Court,

- (a) if the operator's licence of the applicant or the registration of motor vehicles registered in the name of the applicant has not then been suspended by the Executive Council Member, the judge, if the circumstances warrant, may direct that the operation of subsection 69(1) be suspended in respect of the suspension of licence or registration, or both, upon such terms and conditions as to the judge seem proper, or
- (b) if the operator's licence of the applicant or the registration of motor vehicles registered in the name of the applicant has been suspended by the Executive Council Member, the judge, if the circumstances so warrant, may direct that the Executive Council Member remove the suspension of the licence or registration, or both, upon such terms and conditions as to the judge seem proper.

**Report by clerk of court**

72.(1) The clerk of the Supreme Court in which any final order, judgment or conviction to which this Part applies is rendered shall forward to the Executive Council Member immediately a certified copy of the order, judgment or conviction or a certificate thereof in a form prescribed by the Executive Council Member.

(2) The certified copy or certificate is prima facie proof of the order, judgment or conviction.

(3) If the defendant is not resident of the Yukon, the Executive Council Member shall transmit to the registrar or other officer or officers, if any, in charge of the registration of motor vehicles and the licensing of operators in the province or state in which the defendant resides, a certificate of the order, judgment or conviction.

**Impounding of motor vehicle**

73.(1) Subject to sections 74 and 75, where bodily injury to or death of any person or damage to property results from an accident in which a motor vehicle is in any manner directly or indirectly involved, any officer at the scene of the accident, or who arrives thereat while any or all of the motor vehicles so involved in the accident are still at the scene thereof, shall impound each motor vehicle so involved and require it to be taken

- (a) if repairs are necessary and immediately desired by the owner, to such repair shop or garage as the owner may select, for the purpose of having it repaired, or
- (b) if repairs are not necessary or are not immediately desired by the owner, to such garage or storage place as the owner may select,

unless otherwise required by the officer, in which case the officer may direct it to be taken to a garage or storage place maintained by any police force or other public authority, if such is available, and otherwise to a privately maintained garage or storage place designated by the officer, there to be kept at the expense and risk of the owner of the motor vehicle.

(2) Where, pursuant to subsection (1), a motor vehicle has been taken to a repair shop, garage or storage place selected by the owner, an officer in a locality in which the repair shop, garage or storage place is situated, on receipt of a written application by the owner, may, at the cost of the applicant, have the motor vehicle transferred to such other repair shop, garage or storage place as the applicant may select, and may give all necessary directions to that end, and shall in that case give to the owner, operator, manager or other person in charge of the repair shop, garage or other storage place to which the motor vehicle is transferred, a notice as prescribed in subsection (6).

(3) Where any or all of the motor vehicles directly or indirectly involved in the accident are not impounded as provided in subsection (1), if the accident is reported to or otherwise comes to the attention of an officer, he shall, subject to subsection (8) and to sections 74 and 75, impound each motor vehicle so involved, and the officer impounding the motor vehicle shall require it to be disposed of as provided in subsection (1).

(4) All costs and charges for the retrieval, care or storage of a motor vehicle impounded under this section are a lien thereon in favour of the keeper of the repair shop, garage or storage place and may be recovered by him under the provisions of the Garage Keepers Lien Act as though the cost and charges were a lien under that Act.

(5) Where a motor vehicle is impounded under this section, the officer who impounds it shall, directly or through his superior officer, if any, forthwith notify the registrar of such impoundment in writing on the prescribed form.

(6) Where a motor vehicle impounded under this section is placed in a repair shop, garage or storage place, the officer impounding the same shall notify in writing, on the prescribed form, the owner, operator, manager or other person in charge of the repair shop, garage or storage place that the motor vehicle is impounded and, subject to subsection (3), must not be removed or permitted to be removed or released from impoundment except upon written order of the registrar.

(7) Subject to subsection (2), no person shall remove or permit to be removed from the place of impoundment, or release from impoundment any motor vehicle impounded under this section except upon the written order of the registrar.

(8) This section shall not apply to authorize or permit the impounding of a motor vehicle that is property of Her Majesty.

#### **Liability insurance card**

74. If the driver, owner or other person in charge of a motor vehicle that is in any manner directly or indirectly involved in an accident produces to an officer seeking to impound the motor vehicle pursuant to section 73 a motor vehicle liability insurance card issued in respect of

such motor vehicle and in full force at the time of such accident, the officer shall not impound the motor vehicle unless it is required to be impounded by some other provision of this or any other Act, or unless it is required by the Crown as evidence in the prosecution of a criminal offence.

**Release from impoundment**

75. Where a motor vehicle has been impounded under section 73 and

- (a) the registrar is satisfied that at the time of an accident the motor vehicle was a stolen motor vehicle,
- (b) the only damage resulting from an accident is to the person or property of the driver, owner or other person in charge of the motor vehicle, or
- (c) the driver, owner or other person in charge of the motor vehicle produces to an officer evidence that he is the holder of a motor vehicle liability insurance policy with liability coverage at least equivalent to that prescribed by section 68 in respect of the motor vehicle that is in full force,

the registrar shall order the release of the motor vehicle from impoundment unless it is required to be impounded by some other provision of this or any other Act, or unless it is required by the Crown as evidence in the prosecution of a criminal offence.

**Lis pendens**

76.(1) Where the owner of a motor vehicle impounded pursuant to section 73 gives security or proof of satisfaction of claims for damages satisfactory to the registrar, the registrar shall, on application by the owner, order the release of the motor vehicle from impoundment, but if the motor vehicle is not, and is not required to be, registered under this Act, the registrar shall order the release thereof upon the owner giving such security or such proof of satisfaction of claims for damages as the registrar may require.

(2) Where a motor vehicle is impounded pursuant to section 73 and the owner fails to give the security or proof of satisfaction of claims for damages and proof of financial responsibility, or security or proof of satisfaction of claims for damages and an undertaking as provided in subsection (1),

- (a) if six months have elapsed since the date of the accident and no certificate of lis pendens in the prescribed form or otherwise to the satisfaction of the registrar has been filed with the registrar, or
- (b) if such certificate has been filed with the registrar and proof has been given to his satisfaction that
  - (i) the action against the owner of the motor vehicle has been decided in his favour and that no appeal against the judgment has been filed within the time fixed for the filing of such appeal,
  - (ii) that any judgment recovered against the owner has been satisfied or settled,
  - (iii) that the action has not been brought to trial within 12 months after it was begun, or
  - (iv) that although judgment has been recovered against the owner, and no appeal has been filed by him within the time fixed, or any appeal by him has been dismissed, the motor vehicle has not, within three months from the date of the judgment or the date of

the dismissal of such appeal, been seized under an execution issued pursuant to the judgment,

the registrar shall order the release of the motor vehicle from impoundment.

(3) Where the registrar is satisfied by a certificate signed by a qualified mechanic, or by such other written or documentary evidence as he deems sufficient, that a motor vehicle impounded pursuant to section 73 is so damaged that it is impracticable to repair it so that it can be driven on a highway, he may order the release of the motor vehicle from impoundment.

(4) The certificate of *lis pendens* shall, on request therefor and payment of the proper fee, be issued by the clerk of the court in which an action is commenced claiming compensation for damages resulting from bodily injury to or the death of any person or damage in an amount exceeding \$100 to property occasioned by or arising out of the ownership, maintenance, operation or use of a motor vehicle, and the certificate may be in the prescribed form.

**“Owner”**

77. In sections 73 to 76, “owner” includes any person, firm or corporation that has sold a motor vehicle under the terms of a conditional sale agreement, lien or note upon which all or part of the purchase price remains unpaid, or to whom or to which a bill of sale by way of chattel mortgage thereon has been given in respect of which all or part of the money secured thereby remains unpaid, including the assignee of such vendor or mortgagee.

**Abstract of driving record**

78.(1) Upon written request, the registrar may furnish to an insurer or surety an abstract of the driving record of any person covering the three year period immediately preceding the request or such greater period as the registrar allows.

(2) Upon written request, the registrar may in his discretion furnish a certified abstract of the driving record of that person to the person’s employer or a prospective employer.

(3) Upon written request, the registrar may in his discretion furnish a certified abstract of the driving record to a lawyer.

(4) Upon written request, the registrar may in his discretion furnish to a parent or guardian of any person requiring the signature of a parent or guardian on his licence application as provided in section 11, a certified abstract of the driving record of that person covering the three year period immediately preceding the request or such greater period as the registrar in his discretion allows.

**Issue of financial responsibility cards by the registrar**

79.(1) Where the owner of a motor vehicle produces to the registrar a certificate issued by the superintendent of insurance showing that

- (a) he maintains a separate insurance fund for the purpose of satisfying therefrom liabilities he may incur resulting from bodily injury to or the death of any person, or damage to property, occasioned by or arising out of the ownership, maintenance, operation or use of the motor vehicle by him, and



- (b) in the opinion of the superintendent, the insurance fund is adequate to satisfy all liabilities that he is likely to incur, subject, in the case of each motor vehicle registered in his name to the limits as to the amount of the accident insurance benefits specified in Part 6 of the Insurance Act,

the registrar shall issue and deliver to him a financial responsibility card, and shall, on his request, issue and deliver to him a copy of the card issued to him for each motor vehicle registered in his name.

(2) A financial responsibility card issued under this section shall be in a form approved by the superintendent of insurance.

(3) Where the owner of a motor vehicle to whom the registrar has issued a financial responsibility card ceases to maintain, as required by this Part, the financial responsibility in respect of which the card was issued, he shall forthwith deliver to the registrar for cancellation the card and all copies of the card issued to him.

#### **Issue of financial responsibility cards by insurers**

**80.**(1) Every insurer that issues an owner's policy shall

- (a) at the time of issue thereof also issue and deliver to the insured named in the policy a financial responsibility card and a duplicate thereof, and
- (b) on request by the insured, issue and deliver to him one copy of the financial responsibility card delivered to the insured for each person who commonly drives the motor vehicle to which the card refers, or for each motor vehicle of which the policy is issued.

(2) A financial responsibility card issued under this section shall be in a form approved by the superintendent of insurance.

(3) Except where it issues an owner's policy outside the Yukon, an insurer may print and prepare the financial responsibility card for issue and delivery to its insured if the financial responsibility card is in a form approved by the superintendent of insurance.

(4) An insurer that issues owner's policies outside the Yukon may issue financial responsibility cards in respect of such policies, but

- (a) in the case of an insurer that is licensed to carry on in the Yukon the business of automobile insurance, every card issued by it shall show that the policy thereon mentioned complies with Part 6 of the Insurance Act, and
- (b) in the case of an insurer that is not so licensed, the insurer shall file with the superintendent of insurance, in a form prescribed by him,
  - (i) a power of attorney authorizing the superintendent of insurance to accept service of any notice or process for itself in any action or proceeding against it arising out of a motor vehicle accident in the Yukon,
  - (ii) an undertaking to appear in any action or proceeding against it or its insured arising out of a motor vehicle accident in the Yukon and of which it has knowledge,
  - (iii) an undertaking that upon receipt from the superintendent of insurance of any notice or process served upon him in respect of its insured, or in respect of its insured and another or others and sent

by the superintendent of insurance to it as hereinafter provided, it will forthwith cause the notice or process to be personally served upon its insured, and

- (iv) an undertaking not to set up to any claim, action or proceeding under a motor vehicle liability policy issued by it any defence that might not be set up if such policy had been issued in the Yukon in accordance with the law of the Yukon relating to motor vehicle liability policies, and to satisfy up to the limits of liability stated in the policy and, in any event to an amount not less than the limits of liability fixed in Part 6 of the Insurance Act, any judgment rendered against it or its insured by a court in the Yukon which has become final in any such action or proceeding.

(5) Where an insurer to which subsection (4) refers is not authorized to carry on in the Yukon the business of automobile insurance, notice or process in any action or proceeding in the Yukon against it or its insured arising out of a motor vehicle accident in the Yukon, may be effectually served upon the insurer or the insured, or upon both of them, by leaving three copies of the notice or process with the superintendent of insurance, but if the insurer is not a party to the action or proceeding the person who leaves with the superintendent the copies of the notice or process shall at the same time leave with him a written statement signed by the person who issued or caused to be issued the notice or process and stating the full name and address of the insurer against whose insured the action or proceeding is taken.

(6) Upon receipt of notice or process under subsection (5), the superintendent of insurance shall forthwith mail two copies thereof, by registered mail, to the insurer at its address last known to him.

(7) In any action or proceeding against an insurer who has given to the superintendent of insurance an undertaking under paragraph (4)(b), the plaintiff may give evidence of the undertaking and the undertaking shall for all purposes of the action or proceeding be deemed to be a covenant for valuable consideration made by the insurer with the plaintiff.

(8) If an insurer that has filed the documents described in subsection (4) defaults thereunder, certificates of the insurer shall not thereafter be accepted as proof of financial responsibility so long as such default continues, and the registrar shall forthwith notify the superintendent of insurance and the proper officers in charge of the registration of motor vehicles and the licensing of drivers in all provinces and in all states, territories or districts in the United States, where the certificates of the insurer are accepted as proof of financial responsibility, of such default.

### **Garage and sales agency policies**

**81.(1)** Where a person is insured under a policy of the type commonly known as a garage and sales agency policy whereby he is insured against liability, to no lesser limits and matters as specified in Part 6 of the Insurance Act, the insurer who issues the policy shall,

- (a) at the time of issue thereof, issue and deliver to the named insured a financial responsibility card and duplicate thereof, and
- (b) on request by the insured, issue and deliver to him one additional card which shall be a copy of the financial responsibility card delivered to the insured, for any person who is authorized to drive the motor vehicle owned by the insured or in his charge.

(2) A financial responsibility card issued under this section shall be in a form approved by the superintendent of insurance and shall be signed in handwriting and in ink, with his normal signature, by the person for whose use the card or additional card is issued, and the card shall bear the number of the operator's licence held by him as at the date on which the card is issued.

**Production of financial responsibility card**

**82.(1)** The operator of a motor vehicle shall, upon the request of a peace officer, produce a financial responsibility card for that vehicle.

(2) Where the motor vehicle is being operated

- (a) with licence plates issued pursuant to section 54,
- (b) by an appraiser who has custody of the vehicle for the purpose of appraisal,
- (c) by a mechanic who has custody of the vehicle for the purpose of repairs, or
- (d) by the proprietor of or an employee of a service station who has, on behalf of the service station, the custody of a motor vehicle in the course of service station business duties relating to the vehicle,

the peace officer shall give the operator of the vehicle reasonable time within which to produce the financial responsibility card.

(3) Where a newly acquired motor vehicle is being operated with licence plates issued to another motor vehicle pursuant to subsection 46(3), if the operator of the vehicle produces

- (a) proof of the purchase, within the immediately preceding 14 days of the newly acquired vehicle, and
- (b) a financial responsibility card for the vehicle to which the licence plates are issued,

the peace officer shall give the operator of the vehicle reasonable time within which to produce a financial responsibility card for the newly acquired vehicle.

(4) The operator of a motor vehicle who fails to produce a financial responsibility card as required by subsection (1), (2) or (3) is guilty of an offence and is liable on summary conviction to a fine of not more than \$25.

(5) The operator of a motor vehicle who, when requested to produce a financial responsibility card as required by this section,

- (a) produces a false financial responsibility card, or
- (b) produces a financial responsibility card relating to an insurance policy which is invalid at the time of production,

is guilty of an offence.

(6) This section does not apply with respect to a motor vehicle that is registered in a country, state, territory or province other than the Yukon, to a motor vehicle owned by the Crown, or to a motor vehicle registered only as an antique motor vehicle.

**Offences**

**83.**(1) A person who

- (a) applies for the registration of a motor vehicle when it is not an insured motor vehicle,
- (b) obtains the registration of a motor vehicle when it is not an insured motor vehicle, or
- (c) fails to maintain his registered vehicle as an insured motor vehicle

is guilty of an offence.

(2) A person who operates on a highway a motor vehicle that is not an insured motor vehicle is guilty of an offence.

(3) An owner of a motor vehicle that is not an insured motor vehicle who permits any other person to operate that motor vehicle on a highway is guilty of an offence.

(4) Where the registration of a motor vehicle is suspended under this Act it is still a registered motor vehicle for the purposes of this section.

**Offences**

**84.** A person who

- (a) fails to deliver to the registrar for cancellation as required by subsection 79(3) a financial responsibility card or any additional card issued to him, or
- (b) gives or loans to a person not entitled to have the same a financial responsibility card or additional card

is guilty of an offence.

## **PART 5**

### **CIVIL RIGHTS AND REMEDIES**

**Action for negligence not affected**

**85.** Nothing in this Act shall be construed to curtail or abridge the right of any person to prosecute an action for damages by reason of injuries to person or property resulting from the negligence of the owner or operator of any motor vehicle or from the negligence of any agent or employee of the owner.

**Onus where Act contravened**

**86.** Where a vehicle is operated upon a highway in contravention of any provision of this Act and loss or damage is sustained by any person thereby, the onus of proof that the loss or damage did not arise by reason of the contravention of this Act is upon the owner or driver thereof.

**Onus on driver or owner**

**87.**(1) Where a person sustains loss or damage arising out of the operation of a motor vehicle upon a highway and where that vehicle is operated in contravention of any provision of this Act, the onus of proof in any civil proceeding that the loss or damage did not arise by reason of the contravention of this Act is upon the owner or driver of the motor vehicle.

(2) This section does not apply in the case of a collision between motor vehicles upon a highway.

(3) In this section, “motor vehicle” includes a tractor and a self-propelled implement of husbandry.

**When driver deemed agent of owner**

**88.** In an action for the recovery of loss or damage sustained by a person by reason of a motor vehicle upon a highway,

- (a) a person driving the motor vehicle and living with and as a member of the family of the owner thereof, and
- (b) a person who is driving the motor vehicle and who is in possession of it with the consent, expressed or implied, of the owner thereof,

shall be deemed to be the agent or servant of the owner of the motor vehicle and to be employed as such, and shall be deemed to be driving the motor vehicle in the course of his employment, but nothing in this section relieves any person deemed to be the agent or servant of the owner and to be driving the motor vehicle in the course of his employment from the liability for the damages.

## PART 6 ACCIDENT REPORTS

**“Vehicle”**

**89.** In this Part, “vehicle” means a vehicle other than one powered by muscular power.

**Duty of driver at accident**

**90.(1)** When an accident occurs on a highway, the driver or other person in charge of a vehicle that was directly or indirectly involved in the accident

- (a) shall remain at or immediately return to the scene of the accident,
- (b) shall render all reasonable assistance, and
- (c) shall produce in writing to anyone sustaining loss or injury, to any peace officer and to a witness
  - (i) his name and address,
  - (ii) the number of his operator’s licence,
  - (iii) the name and address of the registered owner of the vehicle,
  - (iv) the registration number of the motor vehicle, and
  - (v) a financial responsibility card in respect of that vehicle, issued pursuant to Part 4 of this Act or Part 6 of the Insurance Act,

or such of that information as is requested.

(2) The driver of a vehicle that collides with an unattended vehicle shall stop and

- (a) shall locate and notify the person in charge or owner of the unattended vehicle of the name and address of the driver, the number of his operator’s licence and the registration number of the vehicle striking the unattended vehicle, or

(b) shall leave in a conspicuous place in or upon the vehicle collided with a written notice giving the name and address of the driver, the number of his operator's licence and the registration number of the vehicle striking the unattended vehicle.

(3) The driver of a vehicle involved in an accident resulting in damage to property upon or adjacent to a highway, other than a vehicle under subsection (2), shall take reasonable steps to locate and notify the owner or person in charge of the property of such fact and of the name and address of the driver, the number of his operator's licence and the registration number of the vehicle.

(4) Where the driver is incapable of providing the information required by subsection (1), (2) or (3) and there is another occupant of the vehicle capable of making the report, the occupant shall make the report required to be made by the driver.

(5) Where no information has been provided under subsection (1), (2), (3) or (4) and the driver or occupant is not the owner of the vehicle, the owner shall forthwith after learning of the accident provide the information.

(6) Where the driver is alone, is the owner and is incapable of providing the information required by subsection (1), (2) or (3), he shall provide the information forthwith after becoming capable to do so.

(7) When a motor vehicle which has been involved in an accident is damaged to the extent that it cannot be moved under its own power, the registered owner or the operator of the motor vehicle, after having complied with subsections (1), (2) and (3), shall make arrangements for the motor vehicle to be removed from the highway.

(8) Where the registered owner or the operator of the motor vehicle fails to make or is incapable of making arrangements to move the vehicle as provided in subsection (7), a peace officer may make the arrangements on his behalf and the registered owner shall be notified of the disposition of the motor vehicle by the peace officer.

(9) Where arrangements have been made by a peace officer pursuant to subsection (8), the motor vehicle shall be deemed to be an abandoned motor vehicle and shall then be subject to the provisions of section 105.

### **Written report of accident**

91.(1) Subject to subsection (2), where an accident results in injury or death to a person or in property damage to an apparent extent of \$350 or more, the driver shall forthwith make a written report in the prescribed form and containing such information as may be required thereby to a peace officer having jurisdiction where the accident occurred.

(2) Where the driver is incapable of making the report required by subsection (1) and there is another occupant of the vehicle capable of making the report, the occupant shall make the report required to be made by the driver.

(3) Where no report has been made under subsection (1) or (2) and the driver or occupant is not the owner of the vehicle, the owner shall forthwith after learning of the accident make the report.

(4) Where the driver is alone, is the owner and is incapable of making the report required by subsection (1), he shall make the report forthwith after becoming capable of making it.

#### **Accident report by peace officer**

**92.** A peace officer who has witnessed or investigated an accident shall forthwith forward to the registrar a written report in the prescribed form setting forth full particulars of the accident including the names and addresses of the persons involved and the extent of the personal injuries or property damage.

#### **Additional information concerning accidents**

**93.** Where a report has been made under section 90, 91 or 92, the registrar may require the driver involved or a peace officer or person having knowledge of the accident to furnish additional information or to make a supplementary report.

#### **Inspection of accident report**

**94.**(1) Subject to subsection (2), a written report or statement made or furnished under this Part

- (a) is not open to public inspection, and
- (b) is not admissible in evidence for any purpose in a trial arising out of the accident except to prove
  - (i) compliance with section 91, 92 or 93 of this Act,
  - (ii) falsity in a prosecution for making a false statement in the report or statement, or
  - (iii) the identity of the persons who were driving the vehicles involved in the accident.

(2) Where a person or insurance company has paid or may be liable to pay for damages or recovers or may be entitled to recover damages resulting from an accident in which a motor vehicle is involved, the person and insurance company and any lawyer, agent or other representative of the person or company may be given by the registrar such information as may appear in any report made under section 91, 92 or 93 of this Act, as the case may be, in respect of

- (a) the date, time and place of the accident,
- (b) the identification of vehicles involved in the accident,
- (c) the name and address of any parties to, or involved in, the accident,
- (d) the names and addresses of witnesses to the accident,
- (e) the names and addresses of persons or bodies to whom the report was made,
- (f) the name and address of any peace officer who investigated the accident,
- (g) the location of the road upon which the accident occurred, the direction of travel of the vehicles involved, the weather and highway conditions at the time of the accident,
- (h) the estimate of damages sustained by any person involved in the accident,
- (i) the names and addresses of any insurance companies insuring any parties to, or involved in, the accident, and

- (j) any diagram made with respect to the accident and the fact of any visit to the scene of the accident.

**False statements**

95.(1) Any person who knowingly makes any statement required by this Part that is false is guilty of an offence.

(2) In a prosecution for failure to make a report required by this Part in respect of an accident, the place of the offence shall be deemed to be the place where the accident occurred.

**Repair of damaged vehicle**

96.(1) No person shall commence the repairs or direct or require the repairs to be commenced on a motor vehicle that shows evidence of having been involved in an accident required to be reported under section 91 or having been struck by a bullet

- (a) unless a notice in the prescribed form has been affixed to the motor vehicle by a peace officer, or
- (b) if no notice is affixed to the motor vehicle, until he has been authorized in writing by a peace officer to do so.

(2) A person who contravenes this section is guilty of an offence.

**PART 7  
DUTIES AND PROHIBITIONS**

**Serial numbers on parts**

97.(1) No person shall sell or offer for sale or expose for sale

- (a) any portion of a motor vehicle or of the engine of a motor vehicle, or
- (b) any accessory for a motor vehicle,

that has been serially numbered by the manufacturer or maker if the serial number has been removed, obliterated or defaced or if the serial number is not clearly visible.

(2) This section does not apply to the sale of retreaded or used tires.

**Serial number on motor vehicle**

98.(1) No person shall have in his possession a motor vehicle that does not have

- (a) the manufacturer's serial number, or
- (b) a special identifying number or mark authorized under section 45,

cut, embossed or otherwise permanently marked or attached thereon in the space provided for such identification by the manufacturer or in such other place as may be specified by the Executive Council Member.

(2) A person destroying or dismantling a motor vehicle in such a manner as to make it inoperative shall not use or allow the serial number plate of that motor vehicle to be used on any other motor vehicle and shall destroy the serial number plate.



**Report of unclaimed vehicle**

**99.** Where a motor vehicle that is stored in or left at a public garage, parking station, parking lot, used car lot, repair shop or on any private property is unclaimed for 30 days or more, the person in charge of the place where the motor vehicle was stored or left shall immediately report the presence of the unclaimed motor vehicle to a peace officer having jurisdiction in that area, giving the licence plate number and a description of the motor vehicle and such information as he may have relating to the person storing or leaving the vehicle at his place of business.

**Reports by dealers and wreckers**

**100.**(1) Every person who buys, sells, wrecks, stores or otherwise deals in motor vehicles shall, if a motor vehicle remains in his possession without good reason or under suspicious circumstances, forthwith report the matter to a peace officer in the vicinity.

(2) Every person engaged in the business of buying, selling, exchanging, wrecking, painting, altering or otherwise dealing in motor vehicles shall keep a record of every motor vehicle bought, sold, exchanged, dismantled, wrecked, painted, altered or broken up by him and shall produce the record for inspection at any time upon the demand of a peace officer.

(3) Where a motor vehicle, the manufacturer's serial number or other identifying mark of which is obliterated or illegible, is offered for sale to a dealer in motor vehicles, the dealer

- (a) shall forthwith report the matter to the nearest peace officer,
- (b) shall not buy, sell, wreck or otherwise deal with the vehicle until he has received convincing proof that the person offering the vehicle for sale has the right to sell it, and
- (c) shall keep a record of any such vehicles purchased by him and of the facts convincing him of the right of the person offering the vehicle for sale to sell it.

(4) This section does not apply to a dealer

- (a) who enters into a contract with or who is approved by a municipality for the operation of a motor vehicle disposal area, and
- (b) who receives motor vehicles for disposal without giving consideration.

**PART 8****POWERS OF PEACE OFFICERS AND OFFICERS****Stopping for peace officer**

**101.** Every driver shall, immediately he is signalled or requested to stop by a peace officer in uniform,

- (a) bring his vehicle to a stop,
- (b) furnish any information respecting the driver or the vehicle that the peace officer requires, and
- (c) remain stopped until such time as he is permitted by the peace officer to leave.

**Safety inspection**

**102.(1)** An officer may require the owner or operator of a motor vehicle to submit the motor vehicle, together with its equipment and the trailer, if any, attached thereto, to examination and tests

- (a) to ensure that the motor vehicle, its equipment and trailer, if any, are fit and safe for transportation, or
- (b) in the case of an accident, to determine whether or not the condition of the motor vehicle, its equipment or trailer, if any, contributed in any way to the accident.

(2) If the vehicle, equipment or trailer is found to be unfit or unsafe for transportation or dangerous to passengers or the public, the officer making the examination or test may

- (a) require the operator of the vehicle to have the vehicle, equipment or trailer rendered fit and safe for transportation, and
- (b) order that the vehicle or trailer be removed from the highway until the vehicle, equipment or trailer has been rendered fit and safe for transportation.

(3) Where a motor vehicle or trailer is ordered removed from the highway under subsection (2), an officer may seize the licence plates of the motor vehicle or trailer and hold the plates until the motor vehicle, equipment or trailer has been rendered fit and safe for transportation.

(4) For the purpose of examination of the vehicle, equipment or trailer as provided by this section, the operator of a vehicle shall on the direction of an officer drive the vehicle to and park it at any place designated by the officer.

**Offence****103. An operator**

- (a) who fails to comply with a requirement of subsection 102(1) or (2),
- (b) who in contravention of an order under subsection 102(2) operates a vehicle, equipment or trailer on a highway before it has been rendered fit and safe for transportation, or
- (c) who fails to comply with the direction of the officer given pursuant to subsection 102(4),

is guilty of an offence.

**Removal of vehicle from highway****104. When a vehicle,**

- (a) is left unattended upon a highway in such a manner as to obstruct the normal movement of traffic,
- (b) is illegally parked on any highway,
- (c) is parked on a highway so as to prevent access by fire-fighting equipment to a fire hydrant,
- (d) is without valid and subsisting licence plates or a permit,
- (e) is parked on private property without the consent of the owner of the property or on a highway so as to obstruct any private driveway, or

- (f) is left unattended upon a highway and, in the opinion of an officer, the vehicle, its contents or any part thereof is liable to be stolen or tampered with,

an officer may cause the vehicle to be removed and taken to and stored in a suitable place, and all costs for the removal and storage are a lien upon the vehicle which may be enforced in the manner provided by section 105.

### **Abandoned vehicles**

**105.(1)** Where an officer has seized a vehicle under section 104 or 108, or where an officer, on reasonable and probable grounds believes that a vehicle

- (a) has been abandoned in contravention of section 193, or
- (b) is situated unattended at such location or in such condition as to constitute a present or potential hazard to persons or property,

he may cause the vehicle to be removed from its location, whether private or public property or a highway, and to be stored at what is in his opinion a suitable place therefor.

(2) All reasonable costs incidental to the removal of a vehicle pursuant to subsection (1) and the storage thereof, for a period not exceeding six months, constitutes a debt owing to the Government of the Yukon by the registered owner of the vehicle or any subsequent purchaser.

(3) The registrar may, for the purpose of enforcing payment of a debt owed to the Government of the Yukon pursuant to this section,

- (a) refuse to register any motor vehicle in the name of the debtor, or
- (b) suspend the registration of all vehicles registered in the name of the debtor,

until the debt is paid in full or, where the vehicle is sold pursuant to subsection (4), until the Government of the Yukon receives the amount of the removal and storage costs out of the sale proceeds.

(4) Where a vehicle stored pursuant to this section

- (a) is not registered in the Yukon, or
- (b) is not, within 30 days of its removal, claimed by the registered owner or someone on his behalf in return for full payment of the removal and storage costs actually paid,

the vehicle may, upon the approval of the registrar, be disposed of by public auction or otherwise as the registrar shall direct, after he has made all reasonable efforts to determine the wishes or intentions of the registered owner as to the disposition of the vehicle.

(5) Where the peace officer or officer on reasonable and probable grounds believes that the vehicle referred to in subsection (1) is worthless, he may cause the vehicle to be removed directly to a nuisance ground for disposal.

(6) No liability attaches to a person making the sale of a vehicle pursuant to subsection (4) or disposing of a vehicle pursuant to subsection (5) and, in the case of a sale, that person passes good title therefor as against the former owner or anyone claiming through him.

(7) In this section, "vehicle" includes a wrecked or partially dismantled vehicle or any part of a vehicle.

(8) Where an officer has seized a vehicle under this section or section 104 or 108, he shall notify the registrar of the description of the vehicle, the name and address of the registered owner and place to which the vehicle has been removed for storage.

#### **Assistance to peace officer**

**106.** Every person called upon by a peace officer to assist a peace officer in the arrest of a person suspected of having committed any of the offences mentioned in section 107 is justified in so doing if he knows that the person calling on him for assistance is a peace officer.

#### **Arrest without warrant**

**107.** Every peace officer who on reasonable and probable grounds believes that any person has committed an offence against any of the provisions of the following sections may arrest the person without warrant:

- (a) section 5 relating to the operation of a motor vehicle without having a subsisting operator's licence;
- (b) section 38 relating to the operation of a motor vehicle without having a subsisting certificate of registration;
- (c) section 58 relating to the exposing of a licence plate other than one authorized;
- (d) section 62 relating to the defacing of licence plates;
- (e) section 68 relating to the requirements for motor vehicle liability insurance;
- (f) subsection 98(1) relating to possession of a motor vehicle that does not display a serial number or other authorized identifying number or mark in the space provided for such identification by the manufacturer;
- (g) section 101 relating to the requirement that drivers stop when so requested by a peace officer in uniform.

#### **Seizure of motor vehicle**

**108.(1)** Every peace officer who on reasonable and probable grounds believes that any of the offences enumerated in section 107 has been committed may seize and detain any motor vehicle in respect of which the offence has been committed until the final disposition of any proceedings that may be taken under this Act.

(2) A peace officer seizing a motor vehicle pursuant to subsection (1) may cause the vehicle to be removed and taken to and stored in a suitable place and cause such tests and examinations thereof to be made as he considers proper.

(3) Except where subsection (4) applies, all costs for the removal and storage of the vehicle are a lien upon the vehicle which may be enforced in the manner provided in section 105.

(4) If proceedings are not taken under this Act within ten days after the motor vehicle is seized and detained pursuant to subsection (1), the motor vehicle shall be forthwith returned to the owner thereof.

(5) Notwithstanding anything in this section, where a motor vehicle is seized pursuant to subsection (1), any judge having jurisdiction in the place within which the offence is suspected of having been committed may, in his discretion, release the motor vehicle pending the disposition of any proceedings that may be taken under this Act, if security is given therefor in a sum not exceeding \$100.

(6) Notwithstanding this section, where a vehicle has been impounded for reasons of an offence under section 68, the vehicle may not be released until the registrar is satisfied that the owner has produced proof of financial responsibility equivalent to that required by section 68.

### **Forcible entry of vehicle**

**109.** When necessary to remove, take or store a motor vehicle as authorized by this Part, a peace officer or his agent may forcibly unlock or open a door of the vehicle and do such other things as are reasonably required to facilitate the removal, taking and storing of the vehicle.

### **Right of entry to garages**

**110.** Any peace officer has the right and power without further authority to enter in the interval between six o'clock in the morning and nine o'clock in the evening of the same day

- (a) the business premises of any dealer in motor vehicles or person conducting a motor vehicle livery, or
- (b) any other place of business where motor vehicles are repaired,

for the purpose of ascertaining whether or not this Act is being complied with in respect of the motor vehicles in that place and by the persons employed therein.

## **PART 9 REGULATORY POWERS**

### **POWERS OF THE GOVERNMENT OF THE YUKON**

#### **Speed limits**

**111.(1)** Subject to the provisions of this Act, the Commissioner in Executive Council may, with respect to all or any part of a highway, prescribe a maximum speed for daytime or nighttime, or both, in excess of the general maximum speed fixed by section 131, and may by order prescribe different maximum speeds for different classes of vehicles.

(2) The Commissioner in Executive Council may with respect to all or any part of a highway subject to his direction, control and management, prescribe different minimum speeds

- (a) for daytime and nighttime,
- (b) for different periods of the year, and
- (c) for different traffic lanes on the same highway.

(3) The Commissioner in Executive Council may, with respect to all or any part of a highway subject to his direction, control and management, prescribe by signs posted along the highway speed limits of less than the general maximum speeds fixed by section 131 or fixed pursuant to subsection (1) of this section and applicable to all vehicles or any class of vehicles.

(4) The Commissioner in Executive Council may with respect to any school zone or playground zone on a highway subject to his direction, control and management, prescribe a maximum speed limit less than that fixed by section 133 but not less than 20 kilometres per hour.

(5) The Executive Council Member or his designate may by signs posted along a highway subject to the direction, control and management of the Government of the Yukon, fix a maximum speed limit in respect of any part of the highway under construction or repair or in a state of disrepair, applicable to all vehicles or to any class or classes of vehicles while travelling over that part of the highway.

(6) Where speed limits are prescribed pursuant to this section, there shall be erected along the highway signs indicating the speed limits so prescribed.

### **Regulations respecting equipment**

**112.**(1) The Commissioner in Executive Council may make regulations

- (a) prescribing the standards and specifications for any vehicle or for any equipment or material to be installed or used in vehicles;
- (b) providing for the identification and labelling of such equipment or material or the containers thereof.

(2) The Commissioner in Executive Council may make regulations prescribing standards of performance of vehicles and vehicle components which must be met and maintained.

(3) Any regulation may adopt by reference, in whole or in part with such changes as the Commissioner in Executive Council considers necessary, any code of standards or specifications of any equipment or material to be used or installed in vehicles.

### **Regulations generally**

**113.** The Commissioner in Executive Council may make regulations

- (a) prescribing forms and fixing the times at which and the persons to whom returns are to be made;
- (b) prescribing the design and position of lights and reflectors to be used upon vehicles;
- (c) prescribing the requirements as to brakes on motor vehicles and requiring the periodic inspection, testing and adjustment thereof;
- (d) prescribing any equipment required and the types and uses therefor on vehicles or by drivers and passengers of vehicles;
- (e) requiring the periodic inspection, testing and adjustment of any mechanical equipment of any motor vehicle;
- (f) governing, restricting or prohibiting the use on any highway or highways of any vehicles or class of vehicles that, in the opinion of the Commissioner in Executive Council, may be a hazard to other users of the highway by reason of unusual or novel size, weight or operating characteristics or by reason of any alteration or modification from its original construction by the manufacturer;

- (g) governing, restricting or prohibiting the use on vehicles of any decoration or device that in the opinion of the Commissioner in Executive Council constitutes a hazard to the public or other users of the highway;
- (h) prescribing and requiring the use of devices and other means to prevent accidents or thefts of motor vehicles;
- (i) prescribing fees for licences, permits and certificates required pursuant to this Act;
- (j) prescribing terms and conditions governing the use and operation of motor vehicles;
- (k) prescribing warning signals or devices that may be used and the manner of use thereof;
- (l) prohibiting specified alterations of used motor vehicles or any part thereof and requiring disclosure of specified alterations not prohibited;
- (m) restricting the use of a highway in whole or in part to a particular class of vehicle.

#### **Regulations respecting trailers and off-road vehicles**

**114.(1)** The Commissioner in Executive Council may make regulations as to the operation upon any highway of trailers and the lighting or other equipment to be installed thereon.

(2) The Commissioner in Executive Council may make regulations in respect of any class or classes of motor vehicles not ordinarily operated or intended for operation upon the highway,

- (a) prescribing any equipment required thereon for safety purposes and the types and uses therefor, and
- (b) prescribing traffic rules governing the manner in which they are to be operated,

which may impose different requirements applicable when such motor vehicles are operated on a highway and when they are operated elsewhere than on a highway and which, having regard to the nature and purpose of such vehicles, may declare any provision of this Act wholly or partially inapplicable to such vehicles and the operation thereof.

#### **Regulation of driver training schools**

**115.** The Commissioner in Executive Council may make regulations governing the licensing and operation of driver training schools, and without in any way restricting the generality of the foregoing, may make regulations

- (a) governing the testing and licensing of driving instructors;
- (b) prescribing the kind and nature of driver training equipment to be used;
- (c) requiring the filing of proof of financial responsibility in the amounts and for the purposes which may be prescribed.

#### **Inspection and testing of vehicles**

**116.(1)** The Commissioner in Executive Council may make regulations

- (a) governing the establishment and operation of facilities for the inspection and testing of motor vehicles;
- (b) authorizing the performance of motor vehicle inspections and tests by qualified persons;

- (c) prescribing the conditions that shall attach to the establishment of inspection and testing facilities and to the designation of qualified persons who may perform inspections or tests;
- (d) prescribing the records that shall be kept, and the manner in which they shall be kept, respecting any work performed in the course of, or in connection with, any inspection;
- (e) providing for the examination of any records kept in connection with motor vehicle inspections by such persons as the Commissioner in Executive Council may designate;
- (f) providing the means to identify those facilities where inspections and tests may be carried out;
- (g) providing the means to identify those persons authorized to perform inspections and tests;
- (h) prescribing the inspections and tests to which motor vehicles, or any classes thereof, are to be submitted;
- (i) prescribing when or how often motor vehicles are to be submitted to such inspections and tests;
- (j) prescribing the fee that may be charged the owner of any motor vehicle for any such inspection or test of his vehicle;
- (k) requiring the owners of vehicles that do not pass any such inspection or test to take any action that is necessary so that the vehicles will be able to pass the inspection and tests.

(2) The owner of every motor vehicle registered under this Act shall submit the vehicle to such periodic inspections and tests as are required by the regulations.

## MUNICIPAL POWERS

### Speed limits in municipalities

117.(1) With respect to highways subject to its direction, control and management, a municipality, by bylaw, may

- (a) prescribe a maximum speed in excess of 50 kilometres per hour for all or any part of a highway,
- (b) prescribe a maximum speed of less than 50 kilometres per hour for all or any part of a highway, and
- (c) prescribe a minimum speed for all or any part of any highway designated in the bylaw or prescribe different speeds
  - (i) for daytime and nighttime,
  - (ii) for different periods of the year, or
  - (iii) for different traffic lanes on the same highway.

(2) A municipality may prescribe

- (a) different maximum speeds for different classes of vehicles, and
- (b) different maximum speeds for daytime and nighttime,

but may not increase the maximum speed prescribed by this Act for school zones and playground zones.



(3) With respect to any school zone or playground zone on a highway subject to its control and management, a municipality may prescribe a maximum speed limit less than that fixed by section 133 but not less than 20 kilometres per hour.

(4) A person authorized by the municipality may, by signs posted along a highway subject to the direction, control and management of the municipality, fix a maximum speed limit in respect of any part of the highway under construction or repair or in a state of disrepair applicable to all vehicles or to any class or classes of vehicles while travelling upon that part of the highway.

(5) Where speed limits are prescribed pursuant to this section the municipality fixing the speed limit shall cause to be erected along the highway signs indicating the speed limits so prescribed.

#### **Placing of traffic control devices**

**118.(1)** A municipality may authorize the placing, erecting or marking of traffic control devices at such locations as are considered necessary for controlling highways subjects to its direction, control and management.

(2) A municipality may authorize the erection of stop signs at railway crossings in the municipality.

#### **Traffic regulations**

**119.(1)** With respect to highways under its direction, control and management, a municipality may make bylaws, not inconsistent with this Act and on matters for which no provision is made in this Act, for the regulation and control of vehicle, animal and pedestrian traffic and, without restricting the generality of the foregoing, may make bylaws

- (a) restricting the weight of vehicles or of vehicles with their loads using the highways or any particular highway in the municipality,
- (b) controlling and regulating the use of all highways, sidewalks and other public places and delegating to the chief constable or municipal manager any powers in connection therewith,
- (c) delegating to the municipal manager, or if none, to the municipal clerk, or if none, to the secretary-treasurer, the power to prescribe where traffic control devices are to be located, including traffic control devices restricting the speed of vehicles, providing that traffic control devices located by such persons pursuant to a delegation made under this paragraph shall be deemed to have been made by bylaw of the municipality and providing for a record of all such locations to be kept which shall be open to public inspection during normal business hours,
- (d) classifying motor and other vehicles and pedestrians for any and all purposes involving the use of streets, lanes and other public places,
- (e) preventing or restricting, controlling and regulating
  - (i) the parking of vehicles or of any particular class or classes of vehicles on all or any highways and other public places or any portion thereof, and authorizing any person enforcing its parking laws to place an erasable chalk mark on the tread face of the tire of a parked or stopped vehicle without that person or the municipality incurring any liability for doing so,

- (ii) the parking on specified highways or within a certain distance from any building, of any class or classes of vehicles or of vehicles used for carrying inflammable, combustible, explosive or other dangerous material whether loaded or unloaded, and defining the route or routes through the municipality that such vehicles must follow in entering or traversing the municipality and prohibiting them from travelling on any designated highway, bridge, overpass or subway, and
  - (iii) any other use of the highways and other public places or any portion thereof or for vehicles or any particular classification thereof,
- (f) regulating and controlling the manner and method of entering and leaving private property whereon the parking of vehicles is permitted by the person in possession of the private property to persons other than his relatives, either for profit or otherwise,
  - (g) defining what constitutes objectionable noise, devising a system or method of determining or measuring such noise, and prohibiting the operation of motor vehicles which in any manner make objectionable noise,
  - (h) prohibiting right or left turns at any designated intersection,
  - (i) establishing, acquiring, operating, controlling and regulating parking stands and places for parking vehicles or any class or classes of vehicles on any highway or other public place or on any municipal lands designated in the bylaw as parking stands or places and assigning any particular stand or place to a specific person or persons,
  - (j) prescribing a tariff of fees or charges to be paid by persons using such parking stands or places, which fees or charges may vary according to the location, the classification of the vehicles for which they are intended or as the council may otherwise determine, and in its discretion granting free use of all or any parking stands or places for all vehicles or any particular classification thereof for such period of time or during such hours as may be specified in the bylaw,
  - (k) establishing, controlling and regulating a parking meter system or providing in any other manner for the collection of fees or charges payable by persons using such parking stands or places,
  - (l) preventing the encumbering of streets and other public places by vehicles and other articles, and
  - (m) providing for the impounding and removal from a highway, street, alley, parking lot or other public place of a vehicle in respect of which charges have not been paid or of a vehicle parked in violation of a provision of a bylaw or regulation.

(2) Without limiting the generality of subsection (1), a municipality may make bylaws under and for the purposes of subsection (1),

- (a) controlling or preventing the riding of bicycles on any sidewalk,
- (b) providing for the licensing of owners of bicycles, prescribing regulations with respect thereto and controlling and regulating the operating and parking of bicycles on highways and other public places,
- (c) providing for the seizure or impounding for a period not exceeding 60 days of any bicycle used or operated in contravention of any bylaw,

- (d) regulating parades or processions over and along any highways within the municipality, and prohibiting the passage of any parade or procession over any or all highways within the municipality unless and until a permit therefor has been issued by the mayor, or the council by resolution has expressly permitted it,
- (e) closing or restricting the use of any highway, subway, bridge or overpass or part of any highway, subway, bridge or overpass within the municipality either as to the full width thereof or as to part of the width thereof with respect to any class or classes of vehicles or with respect to any class or classes of pedestrians, and providing for the proper enforcement of any such closing either by way of the erection of barricades or by the adoption of such other means as the council considers necessary or expedient,
- (f) granting a licence or permit for the temporary occupation or use of a road allowance, public highway, or a portion thereof when it is not required for public use, if the licence or permit is terminable upon 30 days notice in writing,
- (g) permitting persons, subject to such conditions and restrictions as the bylaw may provide, to park their motor vehicles on the highway
  - (i) adjacent to or in the vicinity of the land on which they reside, or
  - (ii) in a zone or area in which is situated the land on which they reside,
 notwithstanding any general or specific prohibitions or restrictions on parking relating to that highway,
- (h) providing that vehicular or pedestrian traffic shall travel upon any highway or part of any highway of the municipality only in one direction as the council may in the interests of safety and convenience prescribe,
- (i) prohibiting a class or classes of motor vehicles from using wholly or partially or for a certain period or periods a highway within the municipality,
- (j) prohibiting and regulating crossing and walking along highways by pedestrians,
- (k) notwithstanding section 119, prescribing a maximum speed limit applicable to all alleys in the municipality,
- (l) providing for the placing on a vehicle parked in contravention of this Act or a bylaw under this section of a parking tag in the form prescribed by bylaw allowing the payment of a penalty to the municipality in lieu of prosecution for the offence and setting the penalty applicable to each such offence,
- (m) restricting the use of a highway in whole or in part to a particular class of vehicle,
- (n) designating truck routes,
- (o) preventing or restricting, controlling and regulating the parking of vehicles or any particular classes of vehicles in privately owned trailer parks,
- (p) prohibiting the owner of a vehicle or the person in charge of a vehicle from parking or leaving the vehicle on private property without authority from the owner, tenant, occupant or person in charge or control of the private property and providing for
  - (i) the impounding and removal from the private property of a vehicle so parked or left thereon without authority, and

- (ii) the laying of an information and complaint against the owner or person in charge of the illegally parked vehicle for the parking offence, and
  - (q) prescribing speed limits on lanes or other thoroughfares prepared for the use of vehicles in privately owned trailer parks.
- (3) Except when an Act specifically enacts to a contrary effect, no municipality has any power to pass, enforce or maintain any bylaw
- (a) requiring from any owner or operator of a motor vehicle, any tax, fee, licence or permit for the use of the public highways,
  - (b) excluding any of such persons from the free use of the public highways,
  - (c) that in any way affects the registration or numbering of motor vehicles, or
  - (d) forbidding the use of the public highways contrary to or inconsistent with this Act.

### **Powers of parking authority**

**120.** A municipality may, by bylaw, establish a commission, to be known as a parking authority, and give it power

- (a) to operate all or any off-street parking areas, structures or facilities owned by the municipality or established on land to which the municipality has title, and
- (b) to enter into agreements with any person for the construction, operation or management of off-street parking areas, structures or facilities, whether or not the municipality owns the land or has an interest therein.

## **PART 10 VEHICULAR EQUIPMENT**

### **Offence to lack equipment**

**121.** Every person who operates a vehicle on a highway or who permits another person to operate a vehicle on a highway when that vehicle does not conform to the requirements of this Act or the regulations in respect of the standards and specifications for design, construction or maintenance of the vehicle or any equipment or material used in it commits an offence.

### **Vehicle inspection**

**122.(1)** Any officer may require the owner or operator of a vehicle that is being operated on a highway to submit the vehicle to examination and tests to ensure that the motor vehicle can be operated in compliance with section 121.

(2) The operator of the vehicle shall drive the vehicle to and park it at the place designated by the officer for the examination or test.

(3) Where the officer making the examination or test under subsection (1) determines on reasonable and probable grounds that the vehicle is being operated in contravention of section 121, he may, instead of charging an offence against section 121,

- (a) order that the operator have the vehicle modified or repaired within a stated time so that it can be operated in compliance with section 121, or

- (b) order that the vehicle not be operated on a highway until it can be operated in compliance with section 121.

(4) Where an officer makes an order under paragraph (3)(a) the vehicle may, notwithstanding section 121, be operated on a highway during the time the officer permits for its modification or repair.

(5) Where an officer makes an order under paragraph (3)(b) he may also seize the licence plates and the certificate of registration of the vehicle until the vehicle can be operated in compliance with section 121.

(6) Any person who does not comply with an order under subsection (1), (2) or (3) commits an offence.

### **Maintenance of equipment**

**123.(1)** Without in any way restricting the provisions of this Part, the owner of a vehicle shall keep and maintain the vehicle and all equipment thereof in a condition of conformity at all times with any standards or specifications prescribed by the regulations and shall keep and maintain all equipment prescribed by this Act or the regulations

- (a) in good working order, and
- (b) properly attached to the vehicle,

having regard to the purpose for which that equipment is intended.

(2) Where requested to do so by a peace officer, the owner of a vehicle shall, as soon as is reasonably possible, have any work done to the vehicle that is necessary to make it comply with the provisions of this Part and shall report the compliance to the peace officer.

### **Sirens**

**124.** No vehicle other than a vehicle used

- (a) for the transportation of any member of a fire brigade or of any fire-fighting equipment,
- (b) for the transportation of any peace officer,
- (c) as an ambulance, or
- (d) as a gas disconnecting unit of a public utility company,

shall, while on a highway, be equipped with a siren without the authorization of the Executive Council Member.

### **Television in motor vehicles**

**125.(1)** Except as provided in subsection (2), no person shall drive upon a highway any motor vehicle that is equipped with a television set.

(2) Notwithstanding subsection (1), a television set may be located and operated in a motor vehicle if the driver of the motor vehicle cannot by any means see the screen of the television set while the vehicle is in motion.

**Radar detectors**

**126.**(1) No person shall drive upon a highway a vehicle that is equipped with or that carries or contains a device capable of detecting or interfering with radar or any other electronic equipment as may be used from time to time for measuring the speed of vehicles.

(2) Subsection (1) does not apply to

- (a) a vehicle used by a peace officer in the course of his duties, or
- (b) a vehicle used by a person in conducting a traffic survey authorized by the Executive Council Member.

(3) Where a peace officer apprehends a person operating a motor vehicle contrary to subsection (1), the peace officer may seize the device or equipment and it is forfeited to the Government of the Yukon.

(4) No person shall, without the approval of the Executive Council Member, sell or offer for sale any device capable of detecting or interfering with radar or such other electronic equipment as may be used from time to time for measuring the speed of vehicles.

## **PART 11**

### **RULES OF THE ROAD**

**Observance of rules**

**127.**(1) Every person operating a motor vehicle, a tractor, an implement of husbandry or any other type of vehicle upon a highway shall, insofar as they are applicable, obey the rules of the road set out in this Part, except

- (a) when otherwise instructed by any applicable traffic control device, or
- (b) when otherwise directed by a peace officer.

(2) Every driver shall obey the instructions of any applicable traffic control device.

(3) Notwithstanding anything in this Part, every driver shall obey the directions of any peace officer directing traffic.

(4) Where all or any of the lights of a traffic control signal are not operating properly or are not operating at all, every driver shall use the roadway in the vicinity of the traffic control signal with caution.

(5) Notwithstanding anything in this Part, when a flagperson is stationed, or a barricade or sign is erected upon a highway to direct traffic in connection with any construction, repair or other work upon the highway or upon land adjacent to the highway, every driver shall obey the directions given by the flagperson or, if none, by the barricades or signs.

**Direction of traffic contrary to rules**

**128.**(1) Where a peace officer considers it necessary

- (a) to ensure orderly movement of traffic,
- (b) to prevent injury or damage to persons or property, or
- (c) to permit proper action in an emergency,

he may direct traffic according to his discretion, notwithstanding anything in this Part.

(2) Where a peace officer is not present at the scene of a fire or emergency, any member of a fire brigade present may exercise the powers of a peace officer under subsection (1).

**Driving and parking contrary to rules**

**129.(1) Any motor vehicle equipped with a siren and being**

- (a) used for the transportation of any member of a fire brigade in response to an emergency call,
  - (b) used for the transportation of a peace officer in response to an emergency call or for the purpose of
    - (i) investigating a reported accident,
    - (ii) detecting or preventing crime, or
    - (iii) making an arrest,
  - (c) an ambulance used in response to an emergency call,
  - (d) a gas disconnecting unit of a public utility company used in response to an emergency call, or
  - (e) a vehicle used in an emergency in accordance with an authorization granted by the Executive Council Member pursuant to section 124,
- may while being so used and while the siren is being continuously sounded,
- (f) be operated at such speed as is reasonable and proper having regard to
    - (i) the traffic ordinarily upon the highway,
    - (ii) the use of the highway, and
    - (iii) the fact that it is being so used,
  - (g) proceed past a red or stop signal or stop sign without stopping, and
  - (h) be operated at such speed as is reasonable and safe under the circumstances.

(2) Where required to do so for the purpose of carrying out his duties as a peace officer, a peace officer may, notwithstanding subsection (1),

- (a) operate a motor vehicle on a highway in excess of the speed limit thereon and at such speed as is necessary and reasonable having regard to the traffic ordinarily upon the highway and the fact that it is being so used,
- (b) drive past a red or stop signal or stop sign without stopping but only at such speed as is reasonable and prudent under the circumstances, or
- (c) drive and park a motor vehicle contrary to any rule of the road prescribed by this Act or a municipal bylaw,

if in the interest of law enforcement it is necessary and in the circumstances safe to do so.

(3) Where required to do so for the purpose of carrying out his duties as a member of a fire brigade or ambulance service, a fire fighter or ambulance driver may drive and park a motor vehicle contrary to any rule of the road prescribed by this Act or a municipal bylaw, if it is necessary and in the circumstances safe to do so and shall, in the absence of a peace officer, have the powers of a peace officer under this Act with respect to traffic control and direction to the extent necessary to enable him to efficiently perform his duties or safeguard the public.

(4) Vehicles used in highway maintenance or highway construction work may be operated upon such portions of a highway as may be requisite for the highway maintenance, highway construction or other work in which it is engaged.

**Speed appropriate to circumstances**

**130.** Notwithstanding any speed limit prescribed by or pursuant to this or any other Act, no driver shall drive at any rate of speed that is unreasonable having regard to all the circumstances of the case, including, without restricting the generality of the foregoing,

- (a) the nature, condition and use of the highway,
- (b) the atmospheric, or other conditions that might affect the visibility of the driver or the control of the vehicle,
- (c) the amount of traffic there is, or that might reasonably be expected to be, on the highway, and
- (d) the mechanical condition of the vehicle or any equipment of the vehicle.

**Standard maximum speed**

**131.(1)** Except where a higher rate of speed is prescribed pursuant to section 111, no person shall drive on a primary highway outside a municipality at any greater rate of speed than 90 kilometres per hour.

(2) Except where a higher rate of speed is prescribed pursuant to section 117, no person shall drive in a municipality at a greater rate of speed than 50 kilometres per hour.

(3) Where a municipality has prescribed a maximum rate of speed of less than 50 kilometres per hour pursuant to section 117 and where that rate is designated by signs erected along the highway, no person shall drive at a rate of speed greater than that so prescribed.

**Posting of speed limits**

**132.(1)** No person shall drive at a greater rate of speed than the maximum rate designated by signs erected along the highway pursuant to section 111 or 117, or by the Executive Council Member.

(2) Where a speed limit is prescribed pursuant to section 111 or 117 or by the Department of Highways and Public Works, the speed limit applies to all that part of the highway between the point where the first sign indicating the prescribed speed limit is posted and the point where a sign is posted indicating a greater or lesser speed or indicating that the prescribed speed limit has ceased to apply.

**Speed in school and playground zones**

**133.(1)** In this section, “school zone” and “playground zone” means a zone on a highway identified by a traffic control device as an area where children

- (a) may be expected to be on the highway, or
- (b) are permitted to cross the highway at a designated point along the highway.

(2) On any day on which school is held, no driver shall drive within a school zone outside a municipality at a rate of speed greater than 40 kilometres per hour at any time between eight o'clock in the morning and 4:30 o'clock in the afternoon.

(3) On any day on which school is held, no driver shall drive within a school zone within a municipality at a rate of speed greater than 30 kilometres per hour between eight o'clock in the morning and 4:30 o'clock in the afternoon.



(4) No driver shall drive within a playground zone

- (a) at a rate of speed greater than 30 kilometres per hour, where the zone is within a municipality, or
- (b) at a rate of speed greater than 40 kilometres per hour, where the zone is outside a municipality.

(5) No driver shall pass or attempt to pass a vehicle moving in the same direction as he is in a school zone or a playground zone when the speed limit prescribed by subsection (2), (3) or (4) is in effect.

(6) Where a school zone or playground zone is identified by a traffic control device capable of showing rapid intermittent flashes of yellow light as provided in subsection 168(5), then subsections (2) and (3) do not apply to the zone and subsection (4) does not apply to the zone, except when the rapid intermittent flashes of yellow light are being shown.

(7) Notwithstanding subsections (2) and (3), a municipality may by bylaw increase the prescribed hours where appropriate for any school zone within its corporate limits having regard to the hours of opening and closing of any school or schools, in which case the council shall cause the traffic control devices displayed to identify the prescribed hours as increased.

(8) A school zone or playground zone

- (a) begins where there is a traffic control device indicating the school zone or playground zone, and
- (b) ends where there is a traffic control device indicating a greater rate of speed or the end of the zone.

### **Slow moving vehicles**

**134.(1)** A driver who is proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall drive

- (a) in the right hand traffic lane then available for traffic, or
- (b) as close as practicable to the right hand curb or edge of the roadway,

except when overtaking and passing another vehicle travelling in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.

(2) Where a traffic control device directs slow moving traffic to use a designated traffic lane, a driver when driving slowly shall drive in that lane only.

### **Slow moving vehicles**

**135.(1)** Subject to the other provisions of this Part, on a highway outside of a municipality where there are two or more traffic lanes on the same side of the centre line for vehicles travelling in the same direction, a driver shall not drive in the traffic lane nearest the centre line unless he is driving at or near the maximum speed permitted.

(2) Subsection (1) does not prohibit a slower moving vehicle from using the traffic lane nearest to the centre line for the purpose of overtaking and passing another vehicle.

**Travelling at too slow speed**

136.(1) No driver shall drive at such a slow rate of speed as to impede or block the normal, reasonable movement of traffic then existing on a highway, except when it is necessary to do so for safe operation or to comply with this Part.

(2) No person shall drive

- (a) on a highway, or
- (b) in traffic,

at a slower rate of speed than the minimum speed designated therefor by signs erected along the highway pursuant to section 111.

(3) A peace officer may require a driver who is contravening this section to

- (a) increase his rate of speed,
- (b) remove his vehicle from the roadway, or
- (c) drive in a different traffic lane,

and any driver who fails to obey the order of the peace officer is guilty of an offence.

**Driving on right side of roadway**

137.(1) No person shall drive to the left of the centre line of a highway except

- (a) when overtaking and passing another vehicle travelling in the same direction,
- (b) when the roadway to the right of the centre line is obstructed by a parked vehicle or other object,
- (c) when the roadway to the right of the centre line is closed to traffic,
- (d) when turning left off the highway into another highway or into a private road or driveway,
- (e) when a traffic control device otherwise requires or permits,
- (f) upon a one-way highway, or
- (g) when the width of a roadway does not otherwise permit.

(2) Where a highway is divided into two or more roadways by a boulevard, ditch or other physical barrier, no person shall drive into, across or along the boulevard, ditch or physical barrier.

**Vehicular crossings**

138. Except as may be provided for by a municipal bylaw pursuant to section 119, no person shall drive any vehicle into, across or along any boulevard, ditch or sidewalk except at proper and lawful vehicular crossings provided therefor.

**Meeting and passing on-coming vehicles**

139. Where the condition of a section of roadway is such that it is impractical or unsafe for two vehicles being driven in opposite directions to pass each other in a normal manner,

- (a) if a vehicle is being driven upon that section, another driver approaching that section from the opposite direction shall stop before entering upon the section and shall not proceed until the oncoming vehicle reaches and passes him, or

- (b) if two vehicles are being driven upon that section in opposite directions and meet thereon, each of the drivers shall immediately stop and before proceeding to pass the other shall take all reasonable steps to learn whether he can do so with safety to himself and others and, if necessary, each of the drivers shall assist the other to pass in safety.

### **Rules for traffic lanes**

**140.(1)** On a highway,

- (a) where double solid lines exist between traffic lanes, a driver shall not cross the double solid lines from one lane to another,
- (b) where, in a municipality a single solid line only exists between traffic lanes, a driver shall not cross the single solid line from one lane to another except when overtaking and passing another vehicle,
- (c) where, outside a municipality, a single solid line only exists between traffic lanes, a driver shall not cross the single solid line from one lane to another,
- (d) where a single solid line and a broken line together exist between traffic lanes, a driver shall not cross the solid line from the lane next to which the solid line is located unless he crosses the broken and solid lines from the lane next to which the broken line is located for the purpose of and when overtaking and passing another vehicle in that lane and immediately thereafter recrosses both lines and returns to the lane on the right in which he was originally travelling, or
- (e) where one or more broken lines only exist between traffic lanes, a driver shall not cross the broken line or lines from one lane into another unless it is safe to do so.

(2) Before driving from one traffic lane into another, or from a curb lane or a parking lane into a traffic lane, a driver

- (a) shall signal his intention to do so in the manner prescribed by the regulations, and
- (b) shall give the signal in sufficient time to provide a reasonable warning to other persons of his intentions.

(3) Notwithstanding subsection (1) and unless prohibited by a traffic control device, a driver may cross a single solid line or, outside of a municipality, a double solid line

- (a) when necessary to turn left into a highway, private road or driveway,
- (b) when necessary upon entering the highway from a private road or driveway, or
- (c) when necessary to enter a parking lane on the right side of the centre line.

(4) Notwithstanding anything in this section, a driver shall not

- (a) drive from one traffic lane to another,
- (b) cross a solid or broken line,
- (c) drive from a curb lane into a traffic lane, or
- (d) drive from a parking lane into a traffic lane

when the movement cannot be made in safety.

(5) Where a highway has been divided into lanes by clearly visible lines marked on the road surface, the driver of a vehicle other than a bicycle shall drive his vehicle as closely as practical in the centre of the lane so marked.

(6) No person shall drive a vehicle in such a manner as to occupy space in two lanes except during the act of passing another vehicle or changing lanes or unless road conditions make the use of a single lane impracticable.

**Three lane highways**

141.(1) On a highway consisting of three traffic lanes, a driver shall not drive in the centre traffic lane except

- (a) when passing another vehicle proceeding in the same direction,
- (b) when approaching an intersection where he intends to turn left, or
- (c) when a traffic control device otherwise permits.

(2) Subsection (1) does not apply to a one-way highway.

**One-way highways**

142. A driver shall drive on a one-way highway only in the direction designated by the signs on or along the highway.

**Following other vehicles**

143.(1) No driver shall follow another vehicle more closely than is reasonable and prudent, having due regard for

- (a) the speed of the vehicles,
- (b) the amount and nature of traffic upon the highway, and
- (c) the condition of the highway.

(2) Each driver in a caravan or motorcade, other than a funeral procession, on a highway outside a built-up area along the highway, shall leave sufficient space between his vehicle or combination of vehicles to enable a vehicle to enter and occupy that space without danger.

**Passing on hills, curves and railway crossings**

144.(1) A driver shall not pass or attempt to pass another vehicle travelling in the same direction

- (a) when proceeding uphill,
- (b) when on a curve in the highway, or
- (c) when approaching within 30 metres of or traversing a level railway crossing,

unless a traffic control device otherwise directs or permits.

(2) Subsection (1) does not apply where there are two or more traffic lanes on the same side of the centre line for vehicles proceeding in that direction, and the driver desiring to pass can do so by continuing to drive on the right hand side of the centre line.

(3) Notwithstanding subsection (1), where a curve or grade on a highway is divided into traffic lanes by a broken line or by a broken line and a solid line existing together, a driver may pass on the curve or grade if he crosses the solid line from the lane next to which the broken line is located.

**Passing when meeting on-coming vehicle**

**145.** A driver shall not drive to or upon the left of the centre line of a highway in overtaking and passing another vehicle or an obstruction unless

- (a) the left side is clearly visible, and
- (b) is free of oncoming and overtaking traffic,

for a sufficient distance to permit overtaking and passing to be completely made without interfering with the safe operation of another vehicle.

**Overtaking and passing**

**146.(1)** Subject to section 147, a driver overtaking another vehicle

- (a) shall pass to the left of the other vehicle at a safe distance, and
- (b) shall not return to the right side of the roadway until safely clear of the overtaken vehicle, whereupon he shall return to the right side of the roadway.

(2) Except when overtaking and passing on the right is permitted, a driver being overtaken by another vehicle

- (a) shall give way to the right in favour of the overtaking vehicle, and
- (b) shall not increase his speed until completely passed by the overtaking vehicle.

**Overtaking and passing on the right**

**147.(1)** A driver may overtake and pass on the right of another vehicle

- (a) when the vehicle overtaken is making a left turn or its driver has signalled his intention to make a left turn, or
- (b) upon a one-way highway where the roadway is of sufficient width for two or more lines of moving vehicles and is free from obstructions.

(2) On a highway where there are two or more traffic lanes on the same side of the centre line for vehicles travelling in the same direction,

- (a) a driver overtaking another vehicle travelling in the same direction may pass on the right or left of the other vehicle if there is a lane available for passing to the right or the left of the lane being used by the overtaking vehicle, and
- (b) a driver being overtaken by another vehicle travelling in the same direction shall remain in the lane in which he is driving so as to allow the overtaking vehicle free passage in the lane to the right or the left of the lane in which the overtaken driver is travelling.

**Restrictions on overtaking and passing**

**148.** Notwithstanding anything in this Part, a driver shall not overtake and pass or attempt to overtake or pass another vehicle

- (a) when the movement cannot be made safely,
- (b) by driving off the roadway, or
- (c) by driving in a parking lane.

**Signalling for turns**

**149.** Before turning a vehicle to the left or right, the driver

- (a) shall signal his intention to do so in such manner as may be prescribed by the regulations, and
- (b) shall give the signal in sufficient time to provide a reasonable warning to other persons of the intention of the driver.

**Right turns**

**150.(1)** A driver intending to turn right from a two-way highway onto another two-way highway shall make the turn

- (a) by driving as closely as practicable to the right curb or edge of the roadway while approaching the intersection and turning, and
- (b) upon leaving the intersection by driving as closely as practicable to the right curb or edge of the roadway then entered,

unless a traffic control device otherwise directs or permits.

(2) A driver intending to turn right to enter or leave a one-way highway shall drive as closely as practicable to the right curb or edge of the roadway when entering and leaving the intersection, unless a traffic control device otherwise directs or permits.

(3) On a highway divided into traffic lanes, a driver approaching an intersection and intending to turn right

- (a) shall drive in the traffic lane nearest to the right hand side of the roadway, and
- (b) may pass any other vehicle travelling in the same direction in a lane to his left,

unless a traffic control device otherwise directs or permits.

(4) A driver approaching an intersection and intending to turn right shall, wherever practicable, drive his vehicle into the position required by this section at least 15 metres before reaching that intersection.

**Left turns**

**151.(1)** A driver intending to turn left from a two-way highway onto another two-way highway shall make the turn

- (a) by driving to the right of and as closely as practicable to the centre line of the highway while approaching the intersection and turning, and
- (b) upon leaving the intersection by driving to the right of and as closely as practicable to the centre line of the highway then entered,

unless a traffic control device otherwise directs or permits.

(2) A driver intending to turn left from a two-way highway onto a one-way highway shall make the left turn

- (a) by driving to the right of and as closely as practicable to the centre line of the two-way highway where it enters the intersection, and
- (b) upon leaving the intersection by driving as closely as practicable to the left hand side of the one-way highway entered,

unless a traffic control device otherwise directs or permits.

(3) A driver intending to turn left from a one-way highway onto a two-way highway shall make the left turn

- (a) by driving as closely as practicable to the left side of the one-way highway where it enters the intersection, and
- (b) upon leaving the intersection by driving to the right of and as closely as practicable to the centre line of the two-way highway entered,

unless a traffic control device otherwise directs or permits.

(4) A driver intending to turn left from a one-way highway onto another one-way highway shall make the left turn

- (a) by driving as closely as practicable to the left hand side of the one-way highway where it enters the intersection, and
- (b) upon leaving the intersection by driving as closely as practicable to the left hand side of the other one-way highway entered,

unless a traffic control device otherwise directs or permits.

(5) A driver approaching an intersection and intending to turn left shall, wherever practicable, drive his vehicle into the position required by this section at least 15 metres before reaching that intersection.

#### **Directional arrows**

152.(1) When a traffic lane is marked by a traffic control device showing a directional arrow or arrows, with or without accompanying words, a driver travelling in that lane may make only the movement indicated or permitted by the traffic control device at the intersection or other place to which the traffic control device applies.

(2) When a traffic lane is marked by a traffic control device showing the words “no left turn” or “no right turn” a driver travelling in that lane and approaching the traffic control device shall not make the turn prohibited by the device.

(3) A driver who approaches a traffic control device that shows a downward pointing illuminated green arrow symbol marking the lane in which he is travelling may continue to drive in that lane.

(4) A driver who approaches a traffic control device that shows an illuminated red “X” symbol marking the lane in which he is travelling shall not drive into or continue to drive in that lane.

#### **U-turns**

153.(1) A driver shall not turn his vehicle so as to proceed in the opposite direction unless he can do so in safety and without interfering with other traffic.

(2) A driver shall not turn his vehicle so as to proceed in the opposite direction

- (a) upon a curve, or
- (b) upon the approach to or near the crest of a grade where his vehicle cannot be seen by the driver of another vehicle approaching from either direction within 150 metres.

(3) In a municipality, a driver shall not turn his vehicle so as to proceed in the opposite direction

- (a) on a roadway between intersections,
- (b) at a place where a sign prohibits making a U-turn,
- (c) at an intersection controlled by a traffic control signal, or
- (d) at any other intersection unless the movement can be made in safety.

(4) The turns referred to in this section include those commonly known as “U-turns.”

**U-turns by school bus**

154.(1) The driver of a school bus shall not make a U-turn on any highway other than a four-lane divided highway.

(2) The driver of a school bus shall not make a U-turn on a four-lane divided highway if the total length of the school bus exceeds the shortest distance separating the traffic lanes for traffic proceeding in one direction from the traffic lanes for traffic proceeding in the opposite direction.

(3) The driver of a school bus making a U-turn on a four-lane divided highway shall, before completing the turn, bring the school bus to a stop on the cross-road across the median so that no part of the bus projects over the traffic lanes on either side of the centre strip of the divided highway.

**Backing up**

155.(1) No person shall back a motor vehicle unless the movement can be made in safety, and without interfering with other traffic on the highway.

(2) In a municipality, no person shall back a vehicle into an intersection or crosswalk.

**Right-of-way at intersections**

156.(1) Except as otherwise provided in this Part, when two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle to the left shall yield the right of way to the vehicle on the right.

(2) A driver intending to turn left across the path of any vehicle approaching from the opposite direction shall not make or attempt to make the left turn unless the turn can be completed in safety.

**Signalling stops**

157. Before stopping a vehicle, the driver

- (a) shall signal his intention to do so in such manner as may be prescribed by the regulations, and
- (b) shall give the signal in sufficient time to provide a reasonable warning to other persons of the intention of the driver.



**Stopping before entering highway**

**158.**(1) A driver about to enter upon

- (a) a Yukon highway or a street from a road or driveway, or
- (b) a road from a driveway, shall, unless the intersection of the two roadways is marked with a “yield” sign or a “merge” sign,

bring his vehicle to a stop

- (c) before entering upon the intersecting roadway and at a point no further than three metres from the intersecting roadway,
- (d) if there is a marked crosswalk on the near side of the intersection, immediately before entering upon the crosswalk, or
- (e) if there is a marked stop line on the near side of the intersection, at the stop line.

(2) Notwithstanding subsection (1),

- (a) a driver emerging from any driveway shall stop his vehicle before driving onto a sidewalk crossing and shall yield the right of way to any pedestrian on the sidewalk crossing, and
- (b) a driver entering a driveway shall yield the right of way to any pedestrian on a sidewalk or sidewalk crossing.

**Stop signs**

**159.** A driver about to enter upon any highway from a highway that is marked by a “stop” sign shall bring his vehicle to a stop

- (a) before entering upon the intersecting roadway and at a point no further than three metres from the intersecting roadway,
- (b) if there is a marked crosswalk on the near side of the intersection, immediately before entering upon the crosswalk, or
- (c) if there is a marked stop line on the near side of the intersection, at the stop line.

**Proceeding after stopping**

**160.** Where a driver is required to stop pursuant to section 158 or 159,

- (a) he shall not proceed until the condition of the traffic upon the highway being entered upon is such that he can enter thereon in safety, and
- (b) he shall yield the right of way to all traffic approaching thereupon.

**Yield signs**

**161.** A driver about to enter upon a highway that is marked by a “yield” sign need not stop his vehicle before entering, but he shall yield the right of way to all traffic upon the highway being entered upon.

**Yielding to pedestrians**

**162.**(1) A driver shall yield the right of way to a pedestrian crossing the roadway within a crosswalk.

(2) Whenever any vehicle is stopped at a crosswalk to permit a pedestrian to cross the roadway, any other driver approaching from the rear shall not overtake and pass the stopped vehicle.

(3) At any place upon a roadway other than at a crosswalk, the driver of a vehicle has the right-of-way over pedestrians unless otherwise directed by a peace officer or a traffic control signal, but nothing in this subsection relieves a driver from the duty of exercising due care for the safety of pedestrians.

#### **Yielding to vehicle with siren**

**163.**(1) A driver meeting or being overtaken or being approached from the right or the left by a vehicle on which a siren is being sounded shall

- (a) drive his vehicle as close as practicable to the right of the roadway,
- (b) bring his vehicle to a stop, and
- (c) remain stopped, until the vehicle sounding its siren has passed.

(2) On a one-way highway where there are more than two traffic lanes, a driver meeting or being overtaken or being approached from the right or left by a vehicle on which a siren is being sounded shall

- (a) drive his vehicle as close as practicable to the right of the roadway,
- (b) bring his vehicle to a stop, and
- (c) remain stopped, until the vehicle sounding its siren has passed.

(3) Subsections (1) and (2) do not operate so as to relieve the driver of an authorized emergency vehicle from the duty of driving with due regard to the safety of all persons using the highway.

#### **Railway crossings**

**164.**(1) At a railway crossing at any time when

- (a) a clearly visible electrical or mechanical signal device gives warning of the approach of a railway train,
- (b) a crossing gate is lowered or a flagperson is giving a signal of the approach or passage of a railway train,
- (c) a railway train within approximately 500 metres of the crossing is approaching the crossing and either sounds an audible signal or is visible, or
- (d) a railway train is visible and approaching the crossing and by reason of its speed or nearness is an immediate hazard,

a driver approaching the railway crossing

- (e) shall stop his vehicle no closer than five metres from the nearest rail of the railway, and
- (f) shall not proceed until the train has passed by the railway crossing or has come to a stop and he can safely proceed.

(2) No person shall drive through, around or under a crossing gate or barrier at a railway crossing while the gate or barrier is closed or is being opened or closed.

(3) Where a stop sign is erected at a railway crossing, a driver approaching the railway crossing

- (a) shall stop his vehicle no closer than five metres and no further than 15 metres from the nearest rail of the railway, and
- (b) shall not proceed until he can do so safely.

(4) In the case of a railway crossing that is not controlled by a traffic control signal, the driver of a vehicle that

- (a) is a school bus,
- (b) is carrying explosive substances as cargo, or
- (c) is used for carrying flammable liquids or gas, whether or not it is then empty,

shall stop the vehicle no closer than five metres or further than 15 metres from the nearest rail of the railway, and

- (d) remaining stopped, shall listen and look in both directions along the railway for an approaching train and for signals indicating the approach of a train,
- (e) shall not proceed until he can do so safely, and
- (f) in the case of a school bus, shall before proceeding open the front door and where practicable to do so with one hand, shall also open the window immediately to his left.

(5) Subsection (4) does not apply where a peace officer or a flagperson otherwise directs.

(6) A municipality may, by bylaw, provide that subsection (4) does not apply to all or any railway crossings in the city.

(7) Where a driver has stopped in accordance with this section, he

- (a) shall cross the railway tracks in a gear that he will not need to change while crossing the tracks, and
- (b) shall not shift gears while so crossing.

### **Stopped school bus**

**165.(1)** When a vehicle bearing the sign "school bus" has stopped on a highway to receive or discharge passengers or while the vehicle is displaying alternately flashing red lights, a driver approaching the school bus

- (a) from the rear, if the highway is physically divided by a median into two separate roadways, or
- (b) from either direction, if the highway is not so divided,

shall stop before reaching the school bus.

(2) A person who is required by subsection (1) to stop before reaching a school bus shall not proceed to pass the school bus

- (a) until the school bus resumes motion,
- (b) until the driver of the school bus indicates by a signal that he may proceed, or
- (c) where the school bus is displaying alternately flashing red lights, until the lights stop flashing.

### **Merging**

**166.(1)** A driver about to enter upon an intersecting highway from a highway marked by a "merge" sign need not stop his vehicle before so entering but shall take all necessary precautions and merge safely with the traffic on the intersecting highway.

(2) A driver on a highway marked by a “merging traffic” sign near the intersection of another highway marked by a “merge” sign shall take all reasonable precautions to allow a merging vehicle to enter in safety upon the highway on which he is driving.

**Green traffic lights**

**167.(1)** When a green light alone is shown at an intersection by a traffic control signal, the driver of a vehicle facing the green light

- (a) may proceed straight through the intersection or may turn left or right, subject to any sign or signal prohibiting a left or right turn, or both, or designating the turning movement permitted,
- (b) shall yield the right-of-way to pedestrians lawfully within the intersection or within an adjacent crosswalk at the time the green light is shown, and
- (c) shall yield the right-of-way to other vehicles lawfully within the intersection at the time the green light is shown.

(2) When a green light alone is shown at a place other than an intersection by a traffic control signal, the driver of a vehicle facing the green light

- (a) may proceed to pass the signal, and
- (b) shall yield the right-of-way to any pedestrian still in the roadway or on a crosswalk, if any, in the vicinity of the signal when the green light is shown.

(3) When a green arrow is shown at an intersection by a traffic control signal, the driver of a vehicle facing the green arrow may enter the intersection and make only the movement indicated by the green arrow, but shall yield the right of way

- (a) to pedestrians lawfully within the intersection or within an adjacent crosswalk, and
- (b) to other vehicles lawfully within the intersection.

(4) When a green arrow and a red light are shown at the same time at an intersection by a traffic control signal,

- (a) the driver of a vehicle approaching the intersection and facing the green arrow and red light may, without stopping, cautiously enter the intersection and make only the movement indicated by the green arrow, and
- (b) the driver of the vehicle shall yield the right-of-way to pedestrians lawfully within the intersection or within an adjacent crosswalk and to other vehicles lawfully within the intersection.

(5) Where rapid intermittent flashes of green light are shown at an intersection by a traffic control signal together with a sign or symbol indicating that it is an advanced light or delayed light, the driver of a vehicle facing the flashes of green light

- (a) has the right of way over any vehicles facing him across the intersection and may enter the intersection and turn left, or
- (b) may proceed straight through the intersection or turn right,

while the light is flashing, but he shall yield the right-of-way to pedestrians lawfully within the intersection or within an adjacent crosswalk and to other vehicles lawfully within the intersection at the time the flashing green light is shown.

(6) This section does not apply so as to prohibit a bus that forms part of the municipal bus system of a municipality turning at an intersection in the direction determined by the municipality.

### **Yellow traffic lights**

**168.(1)** When a yellow light is shown at an intersection by a traffic control signal at the same time as or following the showing of a green light, the driver of a vehicle approaching the intersection and facing the yellow light shall stop before entering

- (a) the marked crosswalk on the near side of the intersection, or
- (b) if there is no such marked crosswalk, then before entering the intersection,

unless such a stop cannot be made in safety.

(2) When a yellow light is shown at a place other than an intersection by a traffic control signal at the same time as or following the showing of a green light, the driver of a vehicle approaching the signal shall stop before reaching the closer of

- (a) the signal, or
- (b) the nearest crosswalk, if any, in the vicinity of the signal,

unless such a stop cannot be made in safety.

(3) When rapid intermittent flashes of yellow light are shown at an intersection by a traffic control signal, the driver of a vehicle facing the flashes of yellow light may enter the intersection and proceed only with caution, but shall yield the right-of-way to pedestrians lawfully within the intersection or an adjacent crosswalk and to other vehicles lawfully within the intersection.

(4) When rapid intermittent flashes of yellow light are shown at a place other than an intersection by a traffic control signal, the driver of a vehicle approaching the signal may pass the signal only with caution and shall yield the right-of-way to pedestrians in the roadway or on a crosswalk, if any, in the vicinity of the signal.

(5) When rapid intermittent flashes of yellow light are shown at an intersection or other place together with a sign reading or symbol indicating "school zone", "playground zone", "school crossing", "pedestrian crossing", "pedestrian zone" or other wording or symbol indicating a pedestrian hazard, the driver of a vehicle approaching the signal

- (a) shall cross the intersection or pass the sign, if at a place other than an intersection, only with extreme caution and shall in no case cross the intersection or pass the sign at a greater rate of speed than 30 kilometres per hour, and
- (b) shall yield the right-of-way to pedestrians in the intersection or on the roadway in the vicinity of the sign or signal.

### **Red traffic lights**

**169.(1)** When a red light alone is shown at an intersection by a traffic control signal, the driver of a vehicle approaching the intersection and facing the red light

- (a) shall stop immediately before entering the marked crosswalk on the near side of the intersection or, if there is no such marked crosswalk, then immediately before entering the intersection, and

- (b) shall not proceed until a traffic control signal instructs him that he is permitted to do so,

but unless a traffic control device prohibits a right turn from being made on a red light he may turn and proceed right at the intersection if he first stops and yields the right of way to any pedestrians in the intersection and any vehicles in or approaching the intersection.

(2) Where a red light alone is shown by a traffic control signal at the intersection of two one-way streets, the driver of a vehicle approaching the intersection facing the red light and intending to make a left turn onto the other one-way street

- (a) shall stop immediately before entering the marked crosswalk on the near side of the intersection or, if there is no such marked crosswalk, then immediately before entering the intersection, and
- (b) shall not proceed until a traffic control signal instructs him that he is permitted to do so,

but unless a traffic control device prohibits a left turn from being made on the red light he may turn and proceed left at the intersection if he first stops and yields the right of way to any pedestrians in the intersection and any vehicles in or approaching the intersection.

(3) When a red light is shown at a place other than an intersection by a traffic control signal, the driver of a vehicle approaching the signal shall stop before reaching the closer of

- (a) the signal, or
- (b) the nearest crosswalk, if any, in the vicinity of the signal.

(4) When rapid intermittent flashes of red light are shown at an intersection by a traffic control signal, the driver of a vehicle approaching the intersection and facing the flashes of red light

- (a) shall stop immediately before entering the marked crosswalk on the near side of the intersection or, if there is no such marked crosswalk, then immediately before entering the intersection, and
- (b) shall not proceed until it is safe to do so.

(5) When rapid intermittent flashes of red light are shown at a place other than an intersection by a traffic control signal, the driver of a vehicle approaching the signal

- (a) shall stop immediately before reaching the signal or immediately before entering the nearest crosswalk, if any, in the vicinity of the signal, and
- (b) may, after having stopped, proceed to pass the signal and the crosswalk, if any, only if conditions of pedestrian traffic in the roadway or crosswalk, if any, in the vicinity of the signal are such that the vehicle can do so with safety.

**Vehicles in procession or parade**

170.(1) Notwithstanding sections 156, 158 to 161, 168 and 169, where a municipal bylaw so permits, any vehicle in a funeral procession except the lead vehicle may during daylight hours enter an intersection without stopping if

- (a) the headlamps of the vehicle are alight,
- (b) the vehicle is travelling immediately behind the vehicle in front of it so as to form a continuous line of traffic, and
- (c) the passage into the intersection can be made in safety.

## (2) No driver shall

- (a) break through the ranks of a military or funeral procession, or
- (b) break through the ranks of any other authorized parade or procession.

**Use of lights**

**171.(1)** At any time either during the nighttime hours or when, due to insufficient light or unfavourable atmospheric conditions, objects are not clearly discernible on the highway at a distance of 150 metres ahead,

- (a) no motor vehicle or tractor or self-propelled implement of husbandry shall be in motion on a highway unless both headlamps are alight and are providing sufficient light to make objects on the highway clearly visible for the prescribed distance,
- (b) no bicycle shall be in motion upon a highway unless the lamp or lamps with which it is required to be equipped are alight,
- (c) no motor vehicle, tractor or self-propelled implement of husbandry or trailer shall be in motion upon a highway unless the tail lamps with which it is required to be equipped are alight,
- (d) no motor vehicle, tractor or self-propelled implement of husbandry shall be stationary on a highway outside the corporate limits of any city, town or village unless either
  - (i) the tail lamps with which it is required to be equipped are alight, or
  - (ii) it has affixed thereto reflectors of any type approved by the regulations and so fixed as to reflect the lights of any motor vehicle approaching the stationary vehicle from the rear,
- (e) no vehicle other than a motor vehicle, motor cycle, moped, snowmobile or bicycle, whether in motion or stationary, shall be upon any highway unless
  - (i) there is displayed thereon at least one light visible at a distance of 30 metres or more from both front and rear of the vehicle, or
  - (ii) there are affixed thereon reflectors of a type approved by the regulations, situated toward the front so as to reflect the lights of any motor vehicle approaching from the front and at the rear so as to reflect the lights of any motor vehicle approaching from the rear,
- (f) no trailer shall be upon any highway unless it has at the rear thereof two reflectors
  - (i) of a type approved by the regulations, and
  - (ii) affixed as prescribed by the regulations so as to reflect the lights of any motor vehicle approaching from the rear,
- (g) no trailer drawn by or attached to a motor vehicle and having a width at any part, including any load thereon, in excess of 205 centimetres, shall be upon any highway unless it has affixed in conspicuous positions, at its widest point and as near the top as practical, at least one lighted amber clearance light on each side of the front and at least one lighted red clearance light on each side of the rear, and

- (h) no self-propelled mobile home having a width at any part, including the load thereon, in excess of 205 centimetres, shall be in motion upon any highway unless it has affixed in conspicuous positions, as near the top as practical, at least one lighted amber clearance light on each side of the front and at least one lighted red clearance light on each side of the rear.

(2) No motor cycle shall be in motion upon a highway at any time unless the lamp or lamps with which it is required to be equipped are alight.

### **Use of high beam**

172.(1) Subject to this section, when a motor vehicle is being operated on a highway at any time during which headlamps are required to be alight, the driver shall use a distribution of light or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of his motor vehicle.

(2) When a driver of a vehicle approaches within 300 metres of an oncoming vehicle, he shall use a distribution of light or composite beam that is so aimed that the glaring rays are not directed into the eyes of the driver of the on-coming vehicle.

(3) The lowermost distribution of light or composite beam specified in the regulations shall be beamed to avoid glare regardless of the road contour or loading or time of day.

(4) When the driver of a vehicle follows within 150 metres of the rear of another vehicle he shall not use the uppermost distribution of light referred to in subsection (1).

### **Parking**

173.(1) No person shall park a vehicle upon a roadway outside of a municipality when it is practicable to park the vehicle off the roadway, and in no event shall a person park a vehicle upon the roadway

- (a) unless a clear and unobstructed width opposite the vehicle is left for free passage of other vehicles thereon, and
- (b) unless a clear view of the parked vehicle may be obtained for a distance of 60 metres along the roadway in both directions.

(2) Notwithstanding subsection (1), except

- (a) when his motor vehicle is incapable of moving under its own power,
- (b) where some other emergency arises, or
- (c) as is otherwise permitted by law,

no person shall park a vehicle on the roadway, parking lane or shoulder portions of a Yukon highway outside a municipality.

(3) No vehicle shall remain at a standstill on a highway outside of a municipality for longer than one minute at any place within 10 metres of the point of intersection of that highway with any other highway.



(4) Nothing in this section shall be construed to prohibit police vehicles, ambulances or vehicles engaged in highway repair, maintenance or inspection work from parking upon the roadway when it is advisable to do so

- (a) to prevent accidents,
- (b) to give warning of hazards or of person on the highway,
- (c) to remove injured persons,
- (d) to repair the roadway, or
- (e) for similar purposes.

(5) Subsection (1) does not prohibit the driver of a vehicle of a public utility from parking the vehicle upon the roadway of a highway when it is advisable or necessary to do so for the purpose of the construction, repair, maintenance or inspection of public utility facilities adjacent to, along, over or under the highway.

(6) Nothing in this section shall be construed to prohibit the driver of a school bus from parking the school bus on the roadway of a highway for the purpose of loading or unloading passengers if he cannot park off the roadway and still have a suitable space available on the ground for the passengers being loaded or unloaded.

#### **Parking restrictions**

**174.** Unless required or permitted by this Act, by a traffic control device, in compliance with the directions of a peace officer or to avoid conflict with other traffic, a driver shall not stop or park his vehicle

- (a) on a sidewalk or boulevard,
- (b) on a crosswalk or on any part of a crosswalk,
- (c) within an intersection other than immediately next to the curb in a "T" intersection,
- (d) at an intersection nearer than five metres to the projection of the corner property line immediately ahead or immediately to the rear, except when his vehicle is parked in a space where a parking meter or other traffic control device indicates parking is permitted,
- (e) within five metres upon the approach to any stop sign or yield sign,
- (f) within five metres of any fire hydrant, or when the hydrant is not located at the curb, within five metres of the point on the curb nearest the hydrant,
- (g) within 150 centimetres of an access to a garage, private road or driveway, or a vehicle crossway over a sidewalk,
- (h) within five metres of the near side of a marked crosswalk,
- (i) alongside or opposite any street excavation or obstruction when the stopping or parking would obstruct traffic,
- (j) on any bridge or in any subway or on the approaches thereto,
- (k) at any other place where a traffic control device prohibits stopping or parking during such times as stopping or parking is so prohibited, or
- (l) on the roadway side of a vehicle parked or stopped at the curb or edge of the roadway.

**Parallel parking**

175.(1) When parking on a roadway, a driver shall park his vehicle with the sides thereof parallel to the curb or edge of the roadway and

- (a) with the right hand wheels thereof not more than 500 millimetres from the right hand curb or edge of the roadway, or
- (b) in the case of a one-way highway where parking on either side is permitted, with the wheels closest to a curb or edge of the roadway not more than 500 millimetres from the curb or edge and with the vehicle facing the direction of travel authorized for that highway.

(2) This section does not apply where angle parking is permitted or required.

**Angle parking**

176.(1) Where a sign indicates that angle parking is permitted or required and parking guide lines are visible on the roadway, a driver shall park his vehicle

- (a) with its sides between and parallel to any two of the guide lines, and
- (b) with one front wheel not more than 500 millimetres from the curb or edge of the roadway.

(2) Where a sign indicates that angle parking is permitted or required but no parking guide lines are visible on the roadway, a driver shall park his vehicle

- (a) with its sides at an angle of between 30 and 60 degrees to the curb or edge of the roadway, and
- (b) with one front wheel not more than 500 millimetres from the curb or edge of the roadway.

**Parking on hills**

177. No person shall permit a vehicle to stand unattended upon any grade or slope without first having

- (a) effectively set the vehicle's brake, and
- (b) turned the front wheels to the nearest curb or edge of the roadway in such a manner as to impede any movement of the vehicle.

**Vehicle on jack**

178. No person shall leave a vehicle unattended on a roadway if the vehicle has been placed on a jack or a similar device and

- (a) one or more wheels have been removed from the vehicle, or
- (b) part of the vehicle is raised,

unless it is placed on blocks which are adequate to bear the weight of the vehicle.

**PART 12****MISCELLANEOUS PROHIBITIONS****Careless driving**

179. Every person who drives a vehicle on a highway

- (a) without due care and attention, or
- (b) without reasonable consideration for persons using the highway,

is guilty of the offence of driving carelessly.

**Racing**

**180.** No person shall drive a vehicle upon a highway in a race or on a bet or wager.

**Stunts**

**181.** No person, whether as a pedestrian or driver and whether or not with the use or aid of any animal, vehicle or other thing, shall perform or engage in any stunt or other activity upon a highway that is likely to distract, startle or interfere with other users of the highway.

**Unnecessary noise**

**182.** No person shall create or cause the emission of any loud and unnecessary noise from the motor vehicle, any part thereof, or anything or substance that the motor vehicle or a part thereof comes into contact with.

**Obscured windshield**

**183.** No person shall drive a vehicle upon a highway if the view through the windshield or windows thereof is so obscured by mud, frost, steam or any other thing as to make the driving of the vehicle hazardous or dangerous.

**Interference with driver**

**184.(1)** No driver shall permit any person to occupy the front seat of his vehicle in such a manner as to impede the driver in the free and uninterrupted access to and use of the steering wheel, brakes and other equipment required to be used for the safe operation of the vehicle on a highway, nor shall any driver permit any person in the vehicle to cause any obstruction to his clear vision in any direction.

(2) No person shall ride in such position in a vehicle so as to interfere with the driver's control over the driving mechanism of the vehicle or so as to obstruct his clear vision in any direction.

(3) Where a vehicle is in motion

- (a) the driver shall not exchange places with any other person, and
- (b) no person shall exchange places with the driver.

**Passengers in house trailers**

**185.(1)** No person shall occupy or permit any other person to occupy a house trailer while it is being moved upon a highway.

(2) In this section "house trailer" means a vehicle capable of being attached to and drawn by a motor vehicle and designed, constructed or equipped as a dwelling place, living abode or sleeping place.

**Riding on outside of vehicle**

**186.(1)** No person shall ride or permit any other person to ride on the outside of a motor vehicle.

(2) Subsection (1) does not apply to a person riding

- (a) on a regular seat on a motor cycle, moped or snowmobile,

- (b) in the box of a truck,
- (c) in or on any fire-fighting vehicle,
- (d) in or on a vehicle engaged in highway construction or maintenance,
- (e) in or on a vehicle forming part of an entertainment exhibition that has been approved by the municipality within which it is taking place, or
- (f) in or on a municipal maintenance or municipal service vehicle upon which a special seat or stand has been affixed providing for the safety of the person so riding.

(3) No person shall draw or tow by a motor vehicle on a highway any person riding a sled, toboggan, skis, motor cycle, scooter, moped, snowmobile or bicycle.

**Air cushion vehicles**

**187.** Except as provided by the regulations, no person shall operate an air cushion vehicle on, along or across a highway.

**Age restrictions respecting farm implements**

**188.(1)** No person under the age of 16 years shall drive a tractor or self-propelled implement of husbandry on a highway.

(2) No person shall permit another person under the age of 16 years to drive a tractor or self-propelled implement of husbandry on a highway.

**Removal of damaged vehicle**

**189.(1)** A person who removes a wrecked or damaged vehicle from a highway shall remove glass or any other injurious substance or thing dropped upon the highway from the vehicle.

(2) A person who removes a wrecked or damaged vehicle from a highway without removing glass or any other injurious substance or thing dropped upon the highway from the vehicle is guilty of an offence.

**Opening car doors**

**190.(1)** No person shall open the door of a motor vehicle unless it is reasonably safe to do so.

(2) No person shall leave a door open on a motor vehicle where it may constitute a hazard to moving traffic.

**Tampering prohibited**

**191.** No person other than a peace officer shall use, interfere with or tamper with any motor vehicle, any of its accessories or anything placed therein or thereon, without the consent of the owner.

**Noise in residential areas**

**192.** No person shall operate a vehicle on a residential street within a municipality between the hours of ten o'clock in the evening and seven o'clock of the next morning so as to unduly disturb residents of any such street or any part thereof.

**Abandoning of vehicle**

**193.**(1) No person shall abandon a vehicle upon a highway.

(2) No person shall abandon a vehicle upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

(3) A vehicle left standing, at a location referred to in subsection (1) or (2), for more than 72 consecutive hours shall be deemed to have been abandoned at that location for the purposes of section 105 of this Act.

**Advertising on highways**

**194.**(1) No person shall park on a highway

- (a) a vehicle displayed for sale, or
- (b) a vehicle displaying advertising directing persons to any commercial premises.

(2) No person shall display any goods for sale, offer any goods for sale, or sell any goods upon a highway.

(3) Notwithstanding subsection (2), a municipality may by bylaw permit the display or sale of goods upon a sidewalk.

**Unauthorized traffic signs**

**195.**(1) No person shall place or maintain or display in view of persons using a highway any sign, marking or device

- (a) which purports to be, is in imitation of or resembles a traffic control device, or
- (b) which gives any warning or direction as to the use of the highway by any person.

(2) Subsection (1) does not apply to the placing, maintaining or displaying of a sign, marking or device

- (a) on publicly owned land by or under the authority of the Government of the Yukon with respect of highways under its jurisdiction or of a municipality with respect to highways under its jurisdiction, or
- (b) on privately owned land for the purpose of regulating, warning or guiding traffic on a privately owned highway.

(3) When a sign, marking or device is placed, maintained or displayed in contravention of subsection (1),

- (a) a peace officer, or
- (b) a person authorized by the Executive Council Member or a municipality

may, without notice or compensation, remove the sign marking or device and may, for that purpose, enter upon privately owned land.

**Damage to traffic signs**

**196.** No person shall remove, throw down, deface or alter, injure or destroy a traffic control device placed, marked or erected upon a highway.

**Placing handbills on vehicles**

197.(1) No person shall place or cause to be placed any hand bill or other advertising matter upon or in a vehicle without the permission of the owner or the person in charge of the vehicle.

(2) Subsection (1) applies whether the vehicle is on a highway or on any public or privately owned property.

**Sale of used motor vehicles**

198.(1) No dealer shall sell a used motor vehicle unless

- (a) the vehicle has passed the inspections and tests required under section 116 within such period of time preceding the sale as may be prescribed by the regulations, and
- (b) the dealer furnishes to the buyer a certificate in the form prescribed by the regulations certifying that the vehicle passed those inspections and tests.

(2) Subsection (1) does not apply where the dealer furnishes the buyer with a signed statement disclosing such information about the condition of the vehicle as may be prescribed by the regulations.

**PART 13**

**BICYCLES, MOTOR CYCLES, MOPEDS AND SNOWMOBILES**

**Rules of the road**

199.(1) Unless the context otherwise requires, a person operating a bicycle, motor cycle, moped or snowmobile on a highway has all the rights and is subject to all the duties that the driver of a vehicle has under Parts 11 and 12.

(2) In this Part, "cycle" includes a bicycle, motor cycle, moped or snowmobile.

**Age restrictions**

200. No person under the age of 16 years shall operate a motor cycle, moped or snowmobile on a highway.

**Operation of cycle**

201.(1) A person who is operating a cycle on a highway

- (a) shall keep both hands on the handlebars of his cycle, except when making a signal in accordance with this Act,
- (b) shall keep both feet on the pedals or foot rests of his cycle,
- (c) shall not ride other than upon or astride a regular seat of the cycle, and
- (d) shall not use the cycle to carry more persons at one time than the number for which it is designed or equipped.

(2) A person who is operating a cycle on a highway shall ride as near as practicable to the right hand curb or edge of the roadway.

(3) A person shall not operate a cycle on a roadway where signs prohibit its use.

- (4) A person who is riding as a passenger on a cycle
- (a) shall not ride other than upon a regular seat of the cycle intended for a passenger, and
  - (b) shall keep both feet on the foot-rests provided for the use of the passenger riding on the seat.

### **Towing**

**202.** A person who is operating or riding as a passenger on a cycle shall not hold onto, attach himself to, or attach the cycle to, any other moving vehicle.

### **Riders to cycle single file**

**203.** A person operating a cycle on a highway shall not ride to the side of another cycle travelling in the same direction, but shall ride directly in line to the rear or front of the other cycle, except when overtaking and passing the other cycle.

### **Safety helmets**

**204.(1)** No person shall operate a motor cycle, moped or snowmobile unless he is wearing a safety helmet securely attached on his head.

(2) No person shall ride as a passenger on a motor cycle, moped or snowmobile unless he is wearing a safety helmet securely attached on his head.

(3) No person shall operate a motor cycle, moped or snowmobile on which a passenger is riding unless the passenger is wearing a safety helmet securely attached on his head.

(4) Subsections (1), (2) and (3) do not apply to the operator or passengers of a motor cycle which is manufactured with a cab that encloses and protects the operator and passengers.

(5) No person shall buy, sell or offer for sale any helmet intended for the use of operators or passengers of motor cycles, mopeds or snowmobiles unless it conforms to the specifications prescribed by the regulations.

### **Required equipment for bicycles**

**205.(1)** Every bicycle operated on any highway at any time during the nighttime hours shall be equipped with

- (a) at least one headlamp but not more than two headlamps,
- (b) at least one red tail lamp, and
- (c) at least one red reflector mounted on the rear.

(2) No bicycle shall be operated upon a highway unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(3) A peace officer may require the operator of a bicycle to submit the bicycle to examination and tests to ensure that the bicycle is fit and safe to be ridden.

(4) If in the opinion of a peace officer a bicycle is unfit or unsafe for transportation or dangerous to the public, the peace officer

- (a) may require the operator of the bicycle to have the bicycle rendered fit and safe for transportation, and

- (b) may order the bicycle removed from the highway until the bicycle has been rendered fit and safe to be ridden.

(5) A bicycle operator who fails to comply with a requirement or order of a peace officer under subsection (3) or (4) is guilty of an offence.

## **PART 14 ANIMALS**

### **Rules of the road**

**206.** Unless the context otherwise requires, a person riding an animal or driving an animal-powered vehicle upon a highway has all the rights, and is subject to all the duties, of a driver under Parts 11 and 12.

### **Riding animal on highway**

**207.** A person riding an animal on a highway shall not ride to the side of another animal travelling in the same direction, but shall ride directly in line to the rear or front of the other animal, except when overtaking and passing the other animal.

## **PART 15 PEDESTRIANS**

### **Pedestrians on roadway**

**208.(1)** Where a sidewalk or path is located beside a roadway, a pedestrian shall at all times when reasonable and practicable to do so, use the sidewalk or path and shall not walk or remain on the roadway.

(2) Where there is no sidewalk or footpath, a pedestrian walking along or upon a highway shall at all times when reasonable and practicable to do so, walk only on the left side of the roadway or the shoulder of the highway facing traffic approaching from the opposite direction.

### **Pedestrians crossing roadway**

**209.(1)** Every pedestrian crossing a roadway shall cross as quickly as is reasonably possible without stopping, loitering or otherwise impeding the free movement of vehicles thereon.

(2) A pedestrian shall not step onto a roadway and walk or run into the path of any vehicle that is so close that it is impracticable for the driver of the vehicle to yield the right-of-way.

### **Yielding by pedestrians**

**210.** Every pedestrian crossing a roadway at any point other than within a crosswalk shall yield the right of way to vehicles upon the roadway.



**Pedestrians' right-of-way**

**211.** At a place where there is a crosswalk a pedestrian has the right-of-way over vehicles for the purpose of crossing the roadway within the crosswalk, unless otherwise directed by a peace officer or a traffic control signal, but nothing in this section relieves a pedestrian from the duty of exercising due care for his own safety.

**Pedestrians at green light**

**212.(1)** Where a green light alone is shown at an intersection by a traffic control signal, a pedestrian facing the green light

- (a) may proceed across the roadway within any crosswalk, subject to any special pedestrian traffic control signal directing him otherwise, and
- (b) has the right-of-way for that purpose over all vehicles.

**(2)** Where a green light alone is shown facing the vehicular traffic at a place other than an intersection by a traffic control signal,

- (a) a pedestrian shall not enter upon the roadway in the vicinity of the signal until either
  - (i) the traffic control signal facing the vehicular traffic shows a red light, or
  - (ii) a traffic control signal instructs him that he may cross the roadway, and
- (b) a pedestrian still on the roadway or on a crosswalk in the vicinity of the signal when the green light is shown shall proceed as quickly as possible from the roadway.

**(3)** Where a green arrow is shown at an intersection by a traffic control signal, a pedestrian facing the green arrow shall not enter the roadway unless or until a pedestrian traffic control signal or the showing of a green light by a traffic control signal instructs him that he is permitted to do so.

**(4)** Where a green arrow and red light are shown at the same time at an intersection by a traffic control signal, a pedestrian facing the green arrow and red light shall not enter the roadway unless or until a pedestrian traffic control signal or the showing of a green light by a traffic control signal instructs him that he is permitted to do so.

**Pedestrians at yellow light**

**213.(1)** Where a yellow light is shown at an intersection by a traffic control signal at the same time as or following the showing of a green light,

- (a) a pedestrian facing the yellow light shall not enter the roadway, and
- (b) a pedestrian proceeding across the roadway and facing the yellow light shown after he entered the roadway shall proceed to the sidewalk as quickly as possible and has the right-of-way for that purpose over all vehicles.

**(2)** Where a yellow light facing the vehicular traffic is shown at a place other than an intersection by a traffic control signal at the same time as or following the showing of a green light, a pedestrian shall not enter the roadway in the vicinity of the signal until either

- (a) the traffic control signal facing the vehicular traffic shows a red light, or
- (b) a traffic control signal instructs him that he may cross the roadway.

(3) Where rapid intermittent flashes of yellow light are shown at an intersection by a traffic control signal, a pedestrian facing the flashes of yellow light may proceed across the roadway within a crosswalk with caution.

(4) Where rapid intermittent flashes of yellow light are shown at a place other than an intersection by a traffic control signal, a pedestrian may proceed across the roadway with caution.

### **Pedestrians at red light**

**214.**(1) Where a red light alone is shown at an intersection by a traffic control signal,

- (a) a pedestrian facing the red light shall not enter the roadway unless instructed that he may do so by a pedestrian traffic control signal, and
- (b) a pedestrian proceeding across the roadway and facing the red light shown after he entered upon the roadway shall proceed to the sidewalk as quickly as possible and has the right of way for that purpose over all vehicles.

(2) When a red light facing the vehicular traffic is shown at a place other than an intersection by a traffic control signal, a pedestrian may proceed across the roadway.

(3) Where rapid intermittent flashes of red light are shown at an intersection by a traffic control signal, a pedestrian facing the flashes of red light may proceed across the roadway within a crosswalk with caution.

(4) Where rapid intermittent flashes of red light facing the vehicular traffic are shown at a place other than an intersection by a traffic control signal, a pedestrian may proceed across the roadway.

### **Walk and wait lights**

**215.**(1) When a word or symbol indicating "walk" is shown at an intersection by a pedestrian traffic control signal, a pedestrian

- (a) may proceed across the roadway in the direction of the signal within a crosswalk, and
- (b) has the right-of-way over all vehicles within the intersection or any adjacent crosswalk.

(2) When a word or symbol indicating "walk" is shown at a place other than at an intersection by a pedestrian traffic control signal, a pedestrian

- (a) may proceed across the roadway in the direction of the signal, and
- (b) has the right-of-way over all vehicles.

(3) When a word or symbol indicating "wait" or "don't walk" is shown at an intersection or at a place other than an intersection by a pedestrian traffic control signal

- (a) a pedestrian shall not enter the roadway, and
- (b) a pedestrian proceeding across the roadway and facing the word or symbol indicating "wait" or "don't walk" shown after he entered upon the roadway shall proceed to the sidewalk as quickly as possible and has the right-of-way for that purpose over all vehicles.

**Crossing at traffic lights**

**216.**(1) Where a pedestrian is instructed or permitted by a traffic control signal to enter or to proceed across a roadway, he shall do so

- (a) at an intersection, only within a crosswalk, and
- (b) at a place other than an intersection in the vicinity of which there is a marked crosswalk, only within the crosswalk.

(2) A pedestrian waiting for a traffic control signal to change shall not stand on the roadway.

**Traffic lights not operating**

**217.** Where all or any of the lights of a traffic control signal are not operating properly or are not operating at all, every pedestrian shall use the highway in the vicinity of the traffic control signal with caution.

**Peace officer directing traffic**

**218.**(1) Notwithstanding anything in this Part, every pedestrian shall obey the directions of any peace officer directing traffic.

(2) Notwithstanding anything in this Part, when a flagperson is stationed or a barricade or sign is erected upon a highway to direct traffic in connection with any construction, repair or other work upon the highway or upon land adjacent to the highway, every pedestrian shall obey the directions given by the flagperson or, if none, by the barricade or signs.

**Parades and processions**

**219.**(1) No pedestrian shall

- (a) break through the ranks of a military or funeral procession, or
- (b) break through the ranks of any other authorized parade or procession,

or in any way obstruct, impede or interfere therewith.

(2) No pedestrian shall cross on a green or a walk light while a parade or procession is in the intersection.

**Request by peace officer for I.D.**

**220.** Any person crossing or walking upon a highway in a manner contrary to this Act or any municipal bylaw regulating pedestrian traffic shall, upon request, give his name and address to any peace officer who so requests.

**Pedestrian crossing**

**221.** Nothing in this Part shall be construed as authorizing a pedestrian to cross a roadway in a municipality at a place where a municipal bylaw prohibits the crossing.

**Protection**

**222.** Notwithstanding anything contained in this Part, a pedestrian who is

- (a) a Canada land surveyor, or who is in the employ of such a surveyor,
- (b) a person in the employ of a municipal corporation, the Government of the Yukon, the Government of Canada or of the owner of a public utility, or

- (c) a person operating under contract to, or with authority from, the persons listed in paragraph (a) or (b),

and who, while in the conduct of his duties is required to use the roadways or other portions of the highway contrary to the provisions of this Part or of a municipal bylaw passed under the authority of this Act, is not in contravention of this Part if adequate advance warning is given of his presence on the highway by means of signs, barriers or the use of flagperson.

## **PART 16**

### **PROSECUTIONS**

#### **Offence**

**223.** Any person who contravenes any provision of this Act or the regulations is guilty of an offence.

#### **Penalties**

**224.**(1) Except as otherwise provided in this Act, a person who is guilty of an offence under this Act or the regulations for which a penalty is not otherwise provided is liable on summary conviction to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding six months, or to imprisonment for a term not exceeding six months without the option of a fine.

(2) A person who is guilty of an offence under subsection 5(7) or subsection 38(4) or (5) is liable on summary conviction

- (a) for a first offence, to a fine of not more than \$200, and in default of payment to imprisonment for a term not exceeding 30 days, and
- (b) for any subsequent offence, to a fine of not more than \$500 and in default of payment to imprisonment for a term not exceeding 60 days.

(3) A person who is guilty of an offence under subsection 19(2) is liable on summary conviction

- (a) for a first offence, to a fine of not more than \$1,000 and in default of payment to imprisonment for a term not exceeding six months, and
- (b) for any subsequent offence, to a fine of not more than \$1,000 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(4) A person who is guilty of an offence under section 30, subsection 34(2), section 64 or section 95 is liable on summary conviction to a fine of not more than \$200 and in default of payment to imprisonment for a term not exceeding 30 days.

(5) A person who is guilty of an offence under section 36 or 50 is liable on summary conviction to a fine of not more than \$25.

(6) A person other than a corporation who is guilty of an offence under subsection 82(5), section 83 or section 84 is liable on summary conviction

- (a) for a first offence, to a fine of not less than \$400 and not more than \$2,000, and
- (b) for any subsequent offence to a fine of not less than \$750 and not more than \$2,000,

and in default of payment to imprisonment for a term not exceeding 90 days.

(7) A corporation that is guilty of an offence under section 83 or 84 is liable on summary conviction

- (a) for a first offence to a fine of not less than \$1,000 and not more than \$2,500, and
- (b) for any subsequent offence to a fine of not less than \$1,500 and not more than \$3,000.

(8) A person who is guilty of an offence under section 97 is liable on summary conviction to a fine of not less than \$100 and not more than \$500.

(9) A person who is guilty of an offence under section 179 is liable on summary conviction

- (a) for a first offence, to a fine of not less than \$200 and not more than \$1,000, or to imprisonment for as long as 90 days, or both, and
- (b) for a second or subsequent offence, to a fine of not less than \$500 and not more than \$2,000, or to imprisonment for as long as six months, or both.

(10) A person who contravenes any provision of Part 2 or Part 4 for which no penalty is therein prescribed is guilty of an offence and liable on summary conviction to a fine of not more than \$200 or in default of payment to imprisonment for a term not exceeding 30 days.

(11) Where a person convicted of an offence under section 131, 132 or 133 exceeded the maximum speed permitted by not more than 15 kilometres per hour, he shall pay a fine of \$50 or such lesser amount as may be prescribed and in default of payment is liable to imprisonment for a term of not less than three days.

(12) Where a person convicted of an offence under section 131, 132 or 133 exceeded the maximum speed permitted by more than 15 kilometres per hour but not more than 30 kilometres per hour, he shall pay a fine of \$100 or such lesser amount as may be prescribed and in default of payment is liable to imprisonment for a term of not less than seven days.

(13) Where a person convicted of an offence under section 131, 132 or 133 or subsection 168(5) exceeded the maximum speed permitted by more than 30 kilometres per hour but not more than 50 kilometres per hour, he shall pay a fine of \$150 or such lesser amount as may be prescribed and in default of payment is liable to imprisonment for a term of not less than 14 days.

(14) Where a person convicted of an offence under section 131, 132 or 133 or subsection 168(5) exceeded the maximum speed permitted by more than 50 kilometres per hour, he shall pay a fine of \$200 or such lesser amount as may be prescribed and in default of payment is liable to imprisonment for a term of not less than 21 days.

(15) A person who is guilty of an offence under section 180 is liable on summary conviction to a fine of not more than \$1,000 and in default of payment to imprisonment for a term of not more than six months, or to imprisonment for a term of not more than six months without the option of a fine.

(16) A person who is guilty of an offence under section 189 is liable on summary conviction to a fine of not more than \$100.

**Liability of owner**

225.(1) The owner of a motor vehicle which is involved in any contravention of this Act or a municipal bylaw is guilty of an offence unless he proves to the satisfaction of the judge that at the time of the offence the motor vehicle was not being driven or was not parked or left by him or by any other person with his consent, express or implied.

(2) Notwithstanding subsection (1), if the owner was not at the time of the offence driving the motor vehicle he is not in any event liable to imprisonment.

**Peace officers**

226.(1) For the purposes of the administration and enforcement of this Act within a municipality, an officer designated by the regulations has and may exercise all the powers and functions given to a peace officer under sections 35, 49, 82, 101, 109, 123, 126, 127, 128, 129, 174, 191, 205, 218 and 220.

(2) For the purposes of the administration and enforcement of any bylaw made by a municipality under this Act, the municipality may by bylaw give, to any officer who is an officer or employee of the municipality, such of the powers or functions of a peace officer referred to in subsection (1) as may be specified in the bylaw.

(3) For the purposes of the administration and enforcement of this Act, an officer designated by the regulations has and may exercise all the powers of a peace officer under sections 35, 49, 82, 101, 108, 123 and 128.

(4) The Commissioner in Executive Council may make regulations designating officers or classes of officers who shall have and exercise the powers and functions of peace officers for the purposes of subsection (1) or (3).

(5) Every person who fails to comply with any demand, request, direction, requirement, order or other exercise of authority by an officer under subsection (1), (2) or (3) commits an offence and is liable on summary conviction to the penalty to which he would be liable if the officer were a peace officer.

**Summary of offence**

227. Where a person is convicted of an offence pursuant to this Act, the regulations or a municipal bylaw, the judge by whom the person was convicted shall forward to the registrar with the conviction a summary outlining the facts and circumstances of the offence and setting forth

- (a) the full name, address, birth date and the operator's licence number of the person so convicted,
- (b) the licence number of the motor vehicle,
- (c) the section thereof contravened, and
- (d) the time the offence was committed.

**Suspension of operator's licence**

**228.** When a person who is the holder of an operator's licence is convicted of an offence pursuant to this Act, the regulations or a municipal bylaw, if authority to suspend the operator's licence is not given under any other provision of this Act, the judge, upon making the conviction, may suspend the operator's licence of the convicted person for a period not exceeding three months.

**Order prohibiting driving**

**229.** When a person who is

- (a) temporarily within the Yukon, and
- (b) licensed to drive by the law of the place at which he is a resident,

is convicted of an offence under any of the provisions of this Act, the regulations or a municipal bylaw, the judge making the conviction may by order prohibit that person from driving in the Yukon for any period not exceeding three months stated in the order.

**Order to surrender licence**

**230.** Where a judge makes an order under section 228 or 229, the judge shall order the convicted person to surrender his operator's licence to the court to be forwarded to the registrar.

**Driving disqualification**

**231.(1)** Subject to section 234, upon the conviction of a person of an offence under section 237 or 238 of the Criminal Code (Canada) in respect of a motor vehicle anywhere in Canada, he is disqualified from holding an operator's licence under this Act

- (a) for not less than three months from the date of the conviction, where he has not been convicted of an offence under section 237 or 238 of the Criminal Code (Canada) in respect of a motor vehicle committed anywhere in Canada in the period of five years immediately preceding the date of the offence,
- (b) for not less than one year from the date of the conviction, where he has been convicted of one offence under section 237 or 238 of the Criminal Code (Canada) in respect of a motor vehicle committed anywhere in Canada in the period of five years immediately preceding the date of the new offence, or
- (c) for not less than two years from the date of the conviction, where he has been convicted of more than one offence under section 237 or 238 of the Criminal Code (Canada) in respect of a motor vehicle committed anywhere in Canada in the period of five years immediately preceding the date of the new offence.

(2) When a person is convicted of an offence referred to in subsection (1), the convicting judge shall

- (a) inform the convicted person that he is disqualified under subsection (1) from holding an operator's licence, and
- (b) inform the convicted person of the requirement under subsection 234(3) to surrender any operator's licence that he holds.

(3) The failure of the convicting judge to inform the convicted person as required by subsection (2) shall not constitute a defence in any proceedings taken against the convicted person in respect of the care and control or the operation of a motor vehicle during the period of his disqualification or in respect of his failure to surrender any operator's licence held by him.

(4) Subject to subsection (1) and section 234, where a person is convicted in the Yukon of an offence referred to in subsection (1), the court may make an order increasing the term of his disqualification by such length of time as the court considers appropriate.

(5) Subsections (1) and (4) do not apply in relation to an offence that has been committed before this section comes into force but for which the person is not convicted until after this section comes into force.

### **Surrender of operator's licence**

232.(1) When a peace officer suspects that the driver of a motor vehicle has consumed alcohol or otherwise introduced into his body any alcohol, drug or other substance in such quantity as to affect the driver's physical or mental ability, the peace officer may require the driver to surrender his operator's licence to the peace officer.

(2) The request of a peace officer under subsection (1) suspends any operator's licence belonging to the driver to whom the request is made, and the driver shall forthwith surrender any such licence to the peace officer, but the refusal or other failure of the driver to do so does not affect the suspension.

(3) When a driver who has been required under subsection (1) to surrender his operator's licence is not the holder of an operator's licence, the request disqualifies the driver from holding an operator's licence.

(4) A suspension or disqualification arising pursuant to this section terminates upon the expiration of 24 hours from the time the suspension or disqualification arose.

(5) Notwithstanding subsection (4), where the suspension or disqualification involves alcohol and

- (a) the driver voluntarily undergoes a test at a place designated by the peace officer and the test indicates that the proportion of alcohol in the driver's blood does not exceed 80 milligrams in 100 millilitres of blood, or
- (b) the driver produces to the peace officer a certificate signed by a medical practitioner stating that the driver's blood, as tested by the medical practitioner after the commencement of the suspension or disqualification did not contain more than 80 milligrams of alcohol in 100 millilitres of blood,

the peace officer shall thereupon return the driver's licence, if any, to the driver and the suspension or disqualification thereupon terminates.

### **Driving disqualification**

233.(1) Subject to section 234, upon the conviction of a person of an offence under section 233 or 236 of the Criminal Code (Canada) in respect of a motor vehicle anywhere in Canada, he is disqualified from holding an operator's licence under this Act for not less than three months from the date of the conviction.



(2) Subject to section 234, upon the conviction of a person of an offence under section 203, 204 or 219 of the Criminal Code (Canada) committed by means of a motor vehicle, he is disqualified from holding an operator's licence under this Act for not less than three months from the date of the conviction.

(3) When a person is convicted of an offence referred to in subsection (1) or (2), the convicting judge shall

- (a) inform the convicted person that he is disqualified under subsection (1) or (2), as the case may be, from holding an operator's licence, and
- (b) inform the convicted person of the requirement under subsection 234(3) to surrender any operator's licence that he holds.

(4) The failure of the convicting judge to inform the convicted person as required by subsection (3) shall not constitute a defence in any proceedings taken against the convicted person in respect of the care and control or the operation of a motor vehicle during the period of his disqualification or in respect of his failure to surrender any operator's licence held by him.

(5) Subject to subsections (1) and (2) and to section 234, where a person is convicted in the Yukon of an offence referred to in subsection (1) or (2), the court may make an order increasing the term of his disqualification by such length of time as the court considers appropriate.

(6) Subsections (1), (2) and (5) do not apply in relation to an offence that has been committed before this section comes into force but for which the person is not convicted until after this section comes into force.

### **Period of disqualification**

**234.(1)** Where an order is made anywhere in Canada under section 242 of the Criminal Code (Canada) prohibiting a person from operating a motor vehicle on a highway in Canada, his disqualification from holding an operator's licence under this Act is for the longer of

- (a) the period of time specified in the order, and
- (b) the period specified or ordered under section 231 or 233 of this Act.

(2) Where a person is disqualified from holding an operator's licence under section 231 or 233, any such licence held by him is suspended for the duration of the disqualification.

(3) Where a person is disqualified from holding an operator's licence under section 231 or 233, he shall forthwith surrender any operator's licence held by him to the court to be forwarded to the registrar

- (a) for retention or for re-issuance or replacement in accordance with section 236, or
- (b) in the case of an operator's licence held by a person referred to in subsection 5(3), (4) or (5), to be forwarded to the issuing jurisdiction in accordance with section 65.

**Application for removal of disqualification**

235.(1) Where a person is disqualified for more than two years under section 231 or 233, he may apply to the Driver Control Board established under section 23 for its recommendation respecting the removal of the disqualification, but no such application shall be made before the expiration of two years from the commencement of the disqualification.

(2) Where the Driver Control Board recommends the removal of a disqualification, it shall give a written record of its recommendation to the applicant who may, upon receipt of the record, apply to the court for removal of his disqualification.

(3) In an application under subsection (2), the court may make such order as it considers appropriate respecting the removal of the disqualification, and may include in an order permitting the applicant to hold an operator's licence such conditions as the court considers appropriate respecting

- (a) the hours or days during which the licence may be used, and
- (b) the purpose for which the licence may be used.

(4) No order under this section entitles a person to hold an operator's licence that he is not otherwise entitled to apply for or hold under this Act.

**Reissuance of licence**

236.(1) Except as provided by subsection (2), an operator's licence shall not be issued or reissued to a person disqualified from holding it under section 231 or 233 until the expiration of the disqualification.

(2) Upon the making of an order under subsection 235(3), the registrar may issue or reissue an operator's licence, but before doing so he shall endorse on the licence a brief description of the order or any conditions to which it is subject.

**Offence and penalty**

237. Every person who operates a vehicle on a highway at a time when he is disqualified from holding an operator's licence under section 231 or 233 commits an offence and is liable on summary conviction

- (a) to a fine of not less than \$500 and not more than \$2,000, to imprisonment for not more than six months, or both, where the person has not been convicted of such an offence committed anywhere in Canada in the period of five years immediately preceding the date of the offence,
- (b) to imprisonment for not less than three months and not more than six months, where the person has been convicted of one such offence committed anywhere in Canada in the period of five years immediately preceding the date of the new offence, and
- (c) to imprisonment for not less than six months and not more than two years less one day, where the person has been convicted of more than one such offence committed anywhere in Canada in the period of five years immediately preceding the date of the new offence.

**Appeal**

**238.** If a person whose licence has been suspended enters an appeal against his conviction, the suspension does not apply until the conviction is sustained on appeal or the appeal is abandoned or struck out.

**Unavoidable contraventions of the Act**

**239.** Where a person is charged with an offence under this Act, if the judge trying the case is of the opinion that the offence

- (a) was committed wholly by accident or misadventure and without negligence, and
- (b) could not by the exercise of reasonable care or precaution have been avoided,

the judge may dismiss the charge.

**Proof of existence of traffic control device**

**240.** In a prosecution for contravening this Act, the Highways Act, the regulations or a municipal bylaw, the existence of a traffic control device is prima facie proof that the device was properly designated and erected by the proper authority without other or further proof thereof.

**Proof of distances between lines**

**241.** Where lines for the purpose of indicating distances are painted or repainted on the highway, a certificate purporting to be signed by the Executive Council Member and certifying the measured distance between such lines shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or official character of the person signing the certificate.

**Seizure of motor cycle, moped or snowmobile**

**242.** When a person has been convicted of operating a motor cycle, moped or snowmobile in contravention of sections 179, 180, 181, 182 or 204 or of any provision of Part 11, the judge making the conviction may order that the motor cycle, moped or snowmobile driven by the person at the time of the commission of the offence be seized, impounded and taken into custody of the law for a period of not more than three months if the motor cycle, moped or snowmobile was at that time owned by or registered in the name of that person or his parent or guardian.

**Registrar's certificate is evidence**

**243.(1)** A certificate purporting to be signed by the registrar or his deputy and certifying

- (a) that the person named therein is, or was, at a stated time, the registered owner of a described motor vehicle or trailer,
- (b) that a licence issued under this Act to the person named therein is, or was, at a stated time, suspended, restricted or revoked, or
- (c) as to the last recorded address of the person named therein as shown on the records of the registrar,

shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or official character of the person signing the certificate.

(2) When proof of the disqualification of a person from holding a licence under this Act is required, the production of a certificate purporting to be signed by the registrar or his deputy stating that the person named therein is disqualified from holding a licence under this Act is prima facie proof that the person so named is disqualified, without proof of the signature or official character of the person signing the certificate.

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# **CHAPTER 119**

## **MUNICIPAL ACT**

### **PART 1**

#### **INTERPRETATION**

##### **Interpretation**

###### **1. In this Act,**

- “administrator” means a person appointed as administrator under this Act;
- “assessor” means the assessor appointed pursuant to the Assessment and Taxation Act;
- “board” means a board appointed by council pursuant to this Act to provide advice and recommendations to council;
- “chief administrative officer” means a person appointed as chief administrative officer of a municipality pursuant to section 188;
- “city” means any city established as a city under this Act;
- “clerk” means a clerk of a municipality;
- “commission” means a commission appointed by a council pursuant to this Act with powers and duties as provided;
- “corporation” means a corporation, a company, a society, a sole proprietor, a cooperative association or a firm of partners;
- “council” means the council of a municipality;
- “councillor” means a member of a council elected as a councillor;
- “elector” means an elector as defined in this Act;
- “fiscal year” when used with respect to the government of a municipality means calendar year;
- “hamlet” means a hamlet established under this Act;
- “highway” includes a street, road, lane, bridge, viaduct and any other way open to use by the public and all road allowances made therefor, but does not include a private right-of-way or the highways excluded by an order made pursuant to section 252;
- “Indian band” has the same meaning as “band” has in the Indian Act (Canada);
- “inspector” means the inspector of municipalities appointed under this Act;
- “mayor” means the mayor of a city, town or village;
- “municipal services” means primary municipal services, secondary municipal services and tertiary municipal services as defined in this section and any additional services and facilities as may be prescribed;
- “municipality” means any part of the Yukon established as a city, town or village under this Act;
- “occupier” means an occupier of land and includes the resident occupier of land or, if there is no resident occupier, the person entitled to the possession thereof, a lease-holder and a person having or enjoying in any way for any purpose whatsoever the use of the land otherwise than as owner, whether or not the land or part thereof is an unsurveyed area, and includes a squatter;

- “owner” means an owner of real property and includes a person having any right, title, estate or interest in real property other than that of an occupier or mortgagee;
- “primary municipal services” means those services and facilities necessary to provide primary sewage collection, water delivery service, street and road maintenance with constructed gravel surface, garbage disposal facilities, fire protection and emergency services, sewage treatment facilities, street lighting on arterial roads and administrative office space;
- “real property” means land and all buildings, fixtures, machinery, structures and things erected upon or under or affixed thereto;
- “regulating” includes authorizing, controlling, inspecting, limiting and restricting;
- “secondary municipal services” means those services and facilities necessary to provide recreation, transit, animal impoundment facilities, ditch and culvert surface drainage, garbage collection service, public cemeteries, pavement and sidewalks on major traffic routes and street lighting in major activity areas;
- “submission” means any question, bylaw or matter on which pursuant to any Act the council is required to obtain the assent of the electors or taxpayers of the municipality;
- “taxes” means taxes imposed by this Act and the Assessment and Taxation Act and includes any interest or penalties payable in respect of unpaid taxes, any service charges imposed in respect of local improvements on property by this Act or the Assessment and Taxation Act, and any interest or penalties payable in respect of them;
- “taxpayer” means a person qualified to vote on a money bylaw pursuant to this Act;
- “tertiary municipal services” means those services and facilities necessary to provide parks, pavement, lighting and sidewalks on local collector roads, piped storm drainage systems and parking facilities;
- “town” means any town established as a town under this Act;
- “village” means any part of the Yukon established as a village under this Act.

**Exercise of powers of municipal officer**

2. Words in this or any other Act, or in any regulation passed under such Acts, or in any bylaw or resolution of a council, directing or empowering any officer of the municipality to do any act or thing, or otherwise applying to him by his name of office, include his successors in such office and his lawful deputy, and such person as the council may from time to time by bylaw or resolution designate to act in his place or stead.

**Reckoning of time**

3. In reckoning time for the purposes of this Act, any period of time expressed in days shall be exclusive of any holiday as defined by the Interpretation Act.

**Expiry of time when municipal offices are closed**

4. Where the time limited or the date under this Act for any proceeding or for the doing of anything expires or falls upon a day on which the offices of the municipality are not open to the public, the time so limited shall extend to and such thing may be done on the day next following on which the offices are open to the public, but this subsection does not apply with respect to polling day.

**Jurisdiction of council**

5. The jurisdiction of every council is confined to the municipality the council represents, except where authority beyond the same is expressly conferred by this or any other Act.

## PART 2 INCORPORATION

### DIVISION 1 - INCORPORATION

#### **Municipal corporations**

6.(1) Every city, town or village created or established in the Yukon under this Part shall be a municipal corporation under the name of

- (a) in the case of cities, “the City of.....”,
- (b) in the case of towns, “the Town of .....”, and
- (c) in the case of villages, “the Village of.....”.

(2) A corporation created or established under this Part has all the rights and liabilities of a corporation and has full power, subject to the provisions of this Act, to acquire by purchase, lease or otherwise and to hold real property, and to sell or lease real property and likewise to acquire, hold, sell or lease personal property and to contract for material or services.

(3) The corporation of the City of Dawson is continued as a town under this Act and, notwithstanding subsection (1), it shall have the name “City of Dawson” and the boundaries prescribed by the Commissioner in Executive Council.

(4) The corporation of the City of Whitehorse is continued as a municipality under this Act and with the boundaries prescribed by the Commissioner in Executive Council.

(5) The corporation of the Town of Faro is continued as a municipality under this Act and with the boundaries prescribed by the Commissioner in Executive Council.

(6) The corporations continued under subsections (3), (4), and (5) shall, for the purposes of this Act, be deemed to have been incorporated as municipal corporations under this Act.

#### **Proposal to establish a municipality**

7.(1) Where the population of the area proposed to be established as a municipality is at least 300 people, the Executive Council Member may propose, and either of the following may submit a proposal to the Executive Council Member, for the establishment of a municipality and the Executive Council Member or either of the following may appeal to the Yukon Municipal Board against such a proposal:

- (a) any ten persons who would qualify as taxpayers in the area proposed to be established as a municipality;
- (b) an Indian band that, in the opinion of the Executive Council Member, represents at least 25 persons who are eligible to vote in a band election and who would qualify as electors in the area proposed to be established as a municipality.

(2) The Executive Council Member shall give public notice of the proposal under subsection (1) in two issues a week apart of a newspaper circulating in the area proposed to be established as a municipality and cause a copy of the notice to be posted in four conspicuous places in the area.

(3) The notice shall include

- (a) the area proposed to be included in the municipality,
- (b) the estimated or actual population of the area,
- (c) the estimated tax rate that will be required to be established in order to meet the commitments of the proposed municipality in each of the first two years following its establishment, and
- (d) the time limit for appealing and the procedure to be followed in appealing against the proposed establishment of the municipality.

(4) The appeal shall be taken within 60 days after the second date of publication of the notice in a newspaper under subsection (2).

(5) If the Yukon Municipal Board receives a valid appeal pursuant to this section, it shall fix a time and place to hold an inquiry within such time as may be prescribed.

(6) Where it appears to the Yukon Municipal Board that a large number of the residents of the area are opposed to the establishment of a municipality or are opposed to the terms upon which it is to be established, the Yukon Municipal Board may ascertain the wishes of the inhabitants in the matter in a suitable manner.

(7) The Yukon Municipal Board shall, within the prescribed time, prepare and furnish to the Commissioner in Executive Council a report on the inquiry and shall make recommendations concerning the proposal that the appeal was taken against.

**Order establishing new municipality**

8.(1) If the time limited for an appeal under subsection 7(1) has expired and no appeal has been taken, or if an appeal was taken within that time and the Yukon Municipal Board has made its report or the time prescribed for the board to make its report has expired, the Commissioner in Executive Council may establish the municipality as it was originally proposed or with modifications.

(2) Nothing in this Act shall be construed as impeding the incorporation of a municipality under a separate Act to meet special circumstances or needs.

(3) The order of the Commissioner in Executive Council establishing the municipality shall specify

- (a) the name, boundaries, area and class of the municipality,
- (b) the qualifications required for membership on the first council to be elected and the qualifications required of the voters at the first election,
- (c) the time and manner of electing the first council,
- (d) the respective terms for which members of the council shall be elected at the first election, and
- (e) the returning officer or the provisions for the appointment of a returning officer, at the first election,

and may specify

- (f) the polling place or places at the first election,
- (g) that the inspector shall determine the day, time and place of the first meeting of the first council,



- (h) the sum which may be borrowed to meet the current lawful expenditures of the municipality in the year of incorporation and for the year next following, if deemed expedient, and
- (i) the dates which may be observed initially and once only in place of statutory dates.

(4) All taxes due to the Government of the Yukon levied in the area established as a municipality shall be deemed to be arrears or taxes due to the new municipality and shall be dealt with as if it had imposed the taxes.

(5) All business licences, utility charges or other debts due to the Government of the Yukon and remaining unpaid by residents of the area established as a municipality at the time of the order under subsection (3) shall be deemed to be debts owing to the new municipality and dealt with accordingly.

(6) The Executive Council Member may direct that all money collected by the new municipality under subsections (4) and (5) shall be paid to the Government of the Yukon.

(7) The Commissioner in Executive Council may make any regulations he deems necessary to carry out the provisions of subsections (4), (5), and (6).

#### **Class and jurisdiction of new municipality**

9.(1) The class of municipality to be established shall be as follows:

- (a) village, for estimated populations of 300 to 1,000;
- (b) town, for estimated populations of 500 to 3,000;
- (c) city, for estimated populations of over 2,500.

(2) Any area set aside by law as a national park or a territorial park or a game preserve or sanctuary established by law and contained within the boundaries of a municipality is outside the jurisdiction of the municipality unless otherwise prescribed.

#### **Publication of orders**

10. All orders under this Part shall be published in two issues of a newspaper circulating in the area and displayed in at least four conspicuous places within the proposed municipality.

#### **Order incorporating municipality**

11. Notwithstanding the provisions of section 9, where in the opinion of the Commissioner in Executive Council it is in the public interest to establish a municipality in conjunction with the development of a natural resource, the Commissioner in Executive Council may by order incorporate the residents of any area of land into a municipality.

### **DIVISION 2 - CHANGE OF STATUS OR BOUNDARIES**

#### **Change of status**

12.(1) The status of a municipality may be changed to some other class that the municipality is eligible for under section 9, and the change may be made by the same proponents and procedure and be subject to the same appeal as is established under section 14 for a boundary alteration to reduce the area of the municipality.

(2) If the time for an appeal under subsection (1) has expired and no appeal has been taken, or if an appeal was taken within that time and the Yukon Municipal Board has made its report or the time prescribed for the board to make its report has expired, the Commissioner in Executive Council may order that the status of the municipality be changed to some other class that the municipality is eligible for under section 9.

**Transitional provisions for change of status**

**13.** When a municipality, herein called the "old municipality", changes its status from one class of municipality to another, herein called the "new municipality",

- (a) the mayor of the old municipality continues as the mayor of the new municipality until his successor is sworn into office,
- (b) each other member of the council of the old municipality continues as a member of the council of the new municipality until his successor is sworn into office,
- (c) each officer and employee of the old municipality continues as an officer or employee of the new municipality with the same rights and duties until the council of the new municipality otherwise directs,
- (d) all bylaws and resolutions of the old municipality continue as the bylaws and resolutions of the new municipality, insofar as they are not inconsistent with this Act, until they are repealed or others are made in their stead by the council of the new municipality,
- (e) all taxes due to the old municipality shall be deemed to be arrears or taxes due to the new municipality and may be collected and dealt with by the new municipality as if it had imposed the taxes,
- (f) all rights of action and actions by or against the old municipality may be continued or maintained by or against the new municipality,
- (g) all property vested in the old municipality becomes vested in the new municipality and may be dealt with by the new municipality in its own name subject to any trusts or other conditions applicable thereto, and
- (h) all other assets, liabilities, rights, duties, functions and obligations of the old municipality become vested in the new municipality and may be dealt with by it in its own name.

**Proposal to change boundaries or dissolve municipality**

**14.(1)** The Executive Council Member may propose and any of the following may submit to the Executive Council Member a proposal for the alteration of the boundaries of a municipality so as to include within its boundaries an area that is not part of another municipality and the Executive Council Member or any of the following may appeal to the Yukon Municipal Board against such a proposal:

- (a) by bylaw, the council of the municipality proposed to be enlarged;
- (b) any ten persons who would qualify as taxpayers resident in the area proposed to be added to the municipality;
- (c) an Indian band that, in the opinion of the Executive Council Member, represents at least 25 persons who are eligible to vote in a band election and who would qualify as electors resident in the area proposed to be added to the municipality.

(2) The Executive Council Member shall give public notice of the proposal under subsection (1) in two issues a week apart of a newspaper circulating in the municipality and the area proposed to be added to the municipality and cause a copy of the notice to be posted in four conspicuous places in the area.

(3) Either the Executive Council Member or, by bylaw, the council of a municipality proposed to be reduced may, upon notice to the other, propose the alteration of the boundaries of the municipality so as to reduce the area of the municipality, or may appeal to the Yukon Municipal Board against such a proposal.

(4) Either the Executive Council Member or, by bylaw approved by the taxpayers, the council of the municipality proposed to be dissolved may, upon notice to the other, propose the dissolution of the municipality, or may appeal to the Yukon Municipal Board against such a proposal.

(5) An appeal under subsection (1) shall be taken within 60 days after the second publication of the notice in a newspaper under subsection (2).

(6) An appeal under subsection (3) or (4) shall be taken within 60 days after the appellant receives the notice of the submission of the proposal.

(7) If the Yukon Municipal Board receives a valid appeal pursuant to this section, it shall fix a time and place inside the area to hold an inquiry within such time as may be prescribed.

(8) Where it appears to the Yukon Municipal Board that a large number of the residents of the area are opposed to a proposal made under this section, the Yukon Municipal Board may ascertain the wishes of the inhabitants in the matter in a suitable manner.

(9) The Yukon Municipal Board shall, within the prescribed time, prepare and furnish to the Commissioner in Executive Council a report on the inquiry and shall make recommendations as described in section 15 concerning the proposal that the appeal was taken against.

### **Recommendations of the board**

**15.(1)** If the appeal concerns a change of status of the municipality, the Yukon Municipal Board may recommend

- (a) that the status of the municipality be changed to some other class that it is eligible for under section 9, or
- (b) that the status of the municipality not be changed.

(2) If the appeal concerns an alteration of the boundaries of a municipality, the Yukon Municipal Board may recommend

- (a) that the boundaries be altered as proposed or with modifications, or
- (b) that the boundaries not be altered.

(3) If the appeal concerns the dissolution of the municipality, the Yukon Municipal Board may recommend

- (a) that the municipality be dissolved,

- (b) provisions, if any, that the Commissioner in Executive Council ought to make for the winding up of the affairs of the municipality and for the payment of debts and obligations of the municipality, or
- (c) that the municipality not be dissolved.

**Order for alteration of boundaries**

16. If the time limited for an appeal under subsection 14(1) or (3), as the case may be, has expired and no appeal has been taken, or if an appeal has been taken and the Yukon Municipal Board has made its report or the time prescribed for the board to make its report has expired, the Commissioner in Executive Council may order that the boundaries of the municipality be altered as proposed or with modifications in the proposal.

**Transitional provisions for alteration of boundaries**

17.(1) When the boundaries of a municipality are altered

- (a) the mayor, if he continues to reside in the municipality, shall continue as mayor of the new municipality until his successor is sworn into office,
- (b) each other member of the council who continues to reside in the municipality continues to be a member of the council of the new municipality until his successor is sworn into office,
- (c) each officer and employee of the old municipality continues as an officer or employee of the new municipality with the same rights and duties until the council of the new municipality directs otherwise,
- (d) all bylaws and resolutions of the old municipality continue as bylaws and resolutions governing the additional area included within the boundaries of the new municipality insofar as they are not inconsistent with this Act, until they are repealed or others are made in their stead by the council of the new municipality,
- (e) all taxes due to the Government of the Yukon levied in the additional area added to the old municipality shall be deemed to be arrears or taxes due to the new municipality and shall be dealt with as if it had imposed the taxes,
- (f) all business licences, utility charges or other debts due to the Government of the Yukon and remaining unpaid by residents of the additional area at the time of the proclamation of the alteration of the boundaries of the municipality shall be deemed to be debts owing to the new municipality and dealt with accordingly,
- (g) the Executive Council Member may direct that all money collected by the new municipality under paragraphs (e) and (f) shall be paid to the Government of the Yukon, and
- (h) the Commissioner in Executive Council may make any regulations he deems necessary to carry out the provisions of this section.

(2) If the boundaries of a municipality are altered so as to include a new area within the municipality more than six months before the next regular municipal election under this Act, the Commissioner in Executive Council may order that the new area shall constitute one or more wards and that there be an election of a councillor from each ward.

(3) A ward created under subsection (2) shall continue only until the next regular municipal election under this Act.

(4) A councillor elected under subsection (2) shall, by virtue of that election, hold office only until he is elected again or his successor is elected in the next regular municipal election under this Act.

### **DIVISION 3 - DISSOLUTION**

#### **Order for dissolution**

18.(1) If the time for an appeal under subsection 14(4) has expired and no appeal has been taken, or if an appeal has been taken and the Yukon Municipal Board has made its report or the time prescribed for the board to make its report has expired, the Commissioner in Executive Council may order that the municipality be dissolved.

(2) No municipality shall be dissolved until the Commissioner in Executive Council is satisfied that due provision has been made for the winding up of the municipality's affairs and for the payment of all debts and obligations of the municipality.

(3) Upon dissolution of a municipality all property and assets of the municipality shall be transferred to the Government of the Yukon under such terms and conditions as the Commissioner in Executive Council may prescribe, and all taxes imposed by the municipality remaining unpaid shall be deemed to be taxes imposed by the Commissioner in Executive Council under the Assessment and Taxation Act on the date of their imposition.

(4) Where a municipality is dissolved at a date prior to the imposing of the taxes for the calendar year in which dissolution takes effect, all real property within the municipality so dissolved is liable to assessment and taxation by the Commissioner in Executive Council in that year in accordance with the provisions of the Assessment and Taxation Act.

(5) The last authenticated real property assessment roll of a municipality that has been dissolved may be used for the purpose of levying and collecting taxes therein under the Assessment and Taxation Act.

(6) The Commissioner in Executive Council may make any regulations he deems necessary for the dissolution and proper winding up of a municipality.

### **DIVISION 4 - FORMATION OF HAMLETS**

#### **Orders establishing hamlets**

19. The Commissioner in Executive Council may, by order, designate any area of land to be established as a hamlet and may provide such services as are set out in the order, impose any regulation authorized under this Act or any other Act for municipalities, and impose such taxes, licences, charges and fees to contribute to the cost of providing works and services as provided in this Act for the benefit of the residents.

#### **Contents of orders**

20. The order establishing a hamlet shall include but shall not be restricted to providing for title, boundaries, works or services to be provided and the date the order becomes effective.

**Appointment and election of advisory council**

21. The Commissioner in Executive Council may appoint the members of the first advisory council or may direct the inspector to conduct the first election of members of an advisory council and the Commissioner in Executive Council may prescribe the procedures to be followed for conducting any subsequent hamlet election.

**Members and chairperson of the advisory council**

22. Subject to section 21,

- (a) a hamlet shall have an advisory council of five members which shall be elected, and
- (b) a chairperson shall be elected by the advisory council from amongst its members at its first meeting.

**Duties of the advisory council**

23. It shall be the duty of the advisory council to assist the Commissioner in Executive Council in

- (a) determining the works or services which are required,
- (b) determining the regulations deemed desirable for the benefit of the residents, and
- (c) supervising the works or services required within the hamlet.

**Duties of the inspector**

24. Subject to sections 19 and 20 the inspector shall be responsible for the supervision of the activities of hamlet advisory councils and in carrying out his duties shall determine

- (a) the qualifications required for membership on the advisory council and the qualifications of voters,
- (b) the terms of office for members, and
- (c) the day, time and place of the first meeting of the first advisory council.

**Quorum and votes of the advisory council**

25.(1) A majority of the members of the advisory council constitutes a quorum.

(2) The chairperson shall vote, and any question resulting in a tie shall be deemed to be decided in the negative.

**Meetings**

26.(1) An annual general meeting shall be held each year.

(2) The advisory council may by resolution make rules and regulations relating to the calling of meetings and the conduct of such meetings.

**Secretary**

27. The advisory council may with the approval of the inspector, from time to time, appoint a secretary and fix the salary and prescribe the duties of the secretary.

**Ownership of property**

28. Real and personal property including works of any kind acquired for the hamlet shall be held by the Government of the Yukon on behalf of the hamlet.

**Dissolution**

29. The Commissioner in Executive Council may dissolve any hamlet upon the advice of the inspector and make disposition of its assets as appears equitable.

**Variation of orders establishing hamlets**

30. The Commissioner in Executive Council may at any time vary or amend the order establishing a hamlet.

## **PART 3 ELECTIONS**

### **DIVISION 1 - ELECTORS**

**Qualifications of electors**

31. Every person is entitled to vote at an election in a municipality who

- (a) is a Canadian citizen,
- (b) has attained the age of 19 years on the day on which the poll is taken, and
- (c) has resided in the municipality for the period of one year immediately preceding the day on which the poll is taken.

**Residence of voters**

32.(1) For the purposes of this Part a person does not reside in a municipality unless the true, fixed, permanent lodging place to which, when is he absent, he has the intention of returning is located in the municipality.

(2) Notwithstanding subsection (1), where a person who is a resident of a municipality leaves his home for a temporary purpose, he does not cease to be a resident of the municipality.

(3) Notwithstanding subsection (1), where a person who is a resident of a municipality leaves the municipality with the intention of making his residence elsewhere, he ceases to be a resident of the municipality.

(4) Subject to subsection (1), the place where a person's family resides shall be deemed his place of residence unless he takes up or continues his abode at some other place with the intention of remaining there.

(5) A change of residence can only be made by actual removal with the intent to establish a fixed habitation in another place.

**Qualifications for voting on submissions**

33.(1) Where a person entitled under section 31 to vote at an election in a municipality is a taxpayer, he is qualified to vote on a submission in the municipality.

(2) Subject to subsections (3) and (4), where a corporation is a taxpayer, it is entitled to vote on a submission.

(3) A corporation is not entitled to vote on a submission unless, not less than ten days before the day on which the vote on the submission is taken, it files with the clerk a statement in writing naming some person who is eligible to vote under section 31 as the agent to vote on behalf of the corporation.

(4) No person may vote under this section on behalf of more than one corporation.

(5) For the purposes of this section, "taxpayer" means any person and the spouse of such person who, on the day on which the vote on the submission is to be taken, is the owner of taxable property in the municipality within the meaning of section 49 of the Assessment and Taxation Act.

## **DIVISION 2 - QUALIFICATIONS FOR COUNCIL**

### **Qualifications for election**

**34.(1)** A person is not eligible to be nominated to become a councillor or mayor of a municipality unless

- (a) he is a Canadian citizen on the day of his nomination,
- (b) he will be 19 years of age or older on the day on which the poll is to be taken,
- (c) he will have resided in the municipality for the period of one year immediately preceding the date on which the poll is to be taken, and
- (d) his name appears on the list of electors on the day of his nomination.

(2) Notwithstanding subsection (1), a person is not eligible to become a councillor or mayor of a municipality if he

- (a) is an employee or salaried officer of the municipality,
- (b) is an undischarged bankrupt,
- (c) is a judge of a court, other than a justice of the peace or a youth court judge,
- (d) has, directly or indirectly, any contract or any interest in any contract with the municipality,
- (e) is indebted to the municipality for a debt exceeding \$250, other than a debt for current taxes,
- (f) is currently incarcerated, or
- (g) ceases, before the poll is taken, to be entitled under section 31 to vote at an election in the municipality.

(3) Notwithstanding subsection (2), a person is not disqualified by reason that

- (a) he is a shareholder, officer or director of a corporation, other than a society, that has dealings or contracts with the municipality,
- (b) he is a member, officer or employee of a society that has dealings or contracts with the municipality,
- (c) as executor, administrator, or involuntarily by operation of law, he is a party to or holds, for a period of more than 12 months, a contract with the municipality,
- (d) he receives in common with other inhabitants services that are contracted with the municipality, such as municipal services, easements and encroachments, or purchase of any debenture of the municipality in common,



- (e) he receives witness fees and conduct money for attending proceedings involving the municipality,
- (f) he receives remuneration for serving as a member of the municipal volunteer fire or ambulance brigade or volunteer emergency measures organization, or
- (g) he is providing services or goods to the municipality within the provisions of subsection 35(2).

#### **Disqualification to be councillor or mayor**

35.(1) A person is disqualified from being a councillor or mayor of a municipality where,

- (a) being a shareholder, officer or director of a corporation, other than a society, that has dealings or contracts with the municipality, he votes at a meeting of the council on any question in relation to the corporation, or participates in the consideration of the question by the council,
- (b) being a member, officer or employee of a society that has dealings or contracts with the municipality, he does not declare his relationship to the society in a council meeting before voting on or participating in the consideration by council of any question in relation to the society, or
- (c) he ceases to be eligible to become a councillor or mayor under section 34.

(2) Notwithstanding subsection (1), a member of the council of a municipality may provide goods or services to the municipality where

- (a) the sale of goods or services to the municipality or to persons contracting with the municipality is made at competitive prices by a dealer in those goods or services incidental to and in the ordinary course of his business, and
- (b) the member does not vote at any meeting of the council on any question affecting the contract for such goods or services.

#### **Exemptions**

36. The Commissioner in Executive Council may order that paragraphs 34(2)(d) and 35(1)(a) shall not apply in relation to any corporation or society that is named in the order.

### **DIVISION 3 - ELECTION PROCEEDINGS**

#### **Term of office**

37. All members of council shall hold office for a term of three years.

#### **Bylaws regulating elections**

38. Council may by bylaw

- (a) divide the municipality into polling divisions,
- (b) subject to this Act, regulate the conduct of an election, and
- (c) establish a polling place in a hospital, old age home or similar institution, and set special hours for when the poll shall be open.

#### **Submissions**

39.(1) Subject to this Act, council may by bylaw adopt such rules of procedure concerning a submission as are deemed necessary.

(2) Where a submission is held at the same time as an election the ballot paper used therein shall not be the same in size or colour as that used for an election.

**Provision for wards**

40. The council may by bylaw made with the approval of the Executive Council Member provide that all or some of the members of the council be elected on an area or ward basis.

**Constitution of wards**

41. For the purposes of section 40, a single area or ward may consist of one or more defined areas whether or not the areas are contiguous.

**Commencement of election procedure**

42. The council shall, on or before the first Monday of October in each election year and at other times as required,

- (a) appoint a returning officer, subject to this Act, to be responsible for the administration of the election or submission,
- (b) establish the place for making nominations,
- (c) establish the place or places at which polls will be held if a poll is required and, subject to section 71, set hours during which polls shall be open,
- (d) appoint deputy returning officers as required, or delegate to the returning officer the power to appoint deputy returning officers, and
- (e) otherwise arrange for the holding of the election or submission.

**DIVISION 4 - ADVANCE POLL**

**Direction to establish advance poll**

43.(1) For the purpose of enabling every voter mentioned in section 31 to vote at an election, the council may direct the returning officer to establish one or more advance polling places.

(2) Notice of an advance poll shall be given in the form and the manner provided in section 71.

**Conduct of advance poll**

44. Except as provided in this Act, the poll to be held at every advance polling place shall be conducted in the same manner provided by this Act for the conduct of other polls in an election.

**Hours and voting qualifications**

45.(1) The poll at each advance polling place established shall be open between such hours and on such day or days as the council may determine.

(2) A person is not entitled to vote at an advance poll unless he will be unable to vote on the day on which the vote is to be held

- (a) by reason of his absence from the municipality,
- (b) by matters of conscience, or
- (c) by circumstances beyond his control.

**Recording of voters**

46. The poll clerk at each advance polling place shall record in the poll book in the column headed "remarks" after the name of each person who votes, a notation that the person has voted.

**Oath of voter**

47. The returning officer or the deputy returning officer, every candidate and the agent of every candidate may require that a person intending to vote at the advance poll take any oath that he may be required to take under this Act before being handed a ballot.

**Sealing of ballot boxes**

48. Upon the close of the advance poll each day, the returning officer or the deputy returning officer shall, and each candidate or agent present may, affix his seal to the ballot box in such a manner that no ballots can be deposited in it without breaking the seal, and the ballot box shall remain sealed until the close of the poll on polling day.

**Counting of the ballots**

49. The returning officer or deputy returning officer, in the presence of the candidates and the agents who are present, shall, when all polls are finally closed on polling day, open the ballot box, count the votes and take all other proceedings provided by this Act for deputy returning officers in connection with the conduct of an election after the close of the poll.

**DIVISION 5 - LIST OF ELECTORS****Preliminary list**

50.(1) Where a municipality is not divided into separate polling divisions, the clerk shall prepare in each election year a preliminary list of electors in which the names of all persons qualified to vote at the next election, so far as is ascertainable, are set out in alphabetical order by surname and first name or initial, together with the address of each elector.

(2) Where the municipality is divided into polling divisions, the clerk shall prepare in each election year a separate preliminary list of electors for each polling division.

(3) Where a by-election occurs and the list of electors has not been revised within the eight months preceding the date of the by-election, the council shall cause the list of electors to be revised in accordance with the provisions of this Act.

(4) Notwithstanding subsection (3), the council may cause the list of electors to be revised in accordance with provisions of this Act where a by-election occurs within the eight months following the last revision.

**Contents of the list**

51. The preliminary list of electors prepared pursuant to section 50 shall set out in alphabetical order the names of all persons entitled to vote together with the address of each elector, so far as it reasonably may be practicable to do so.

**Enumeration or registration of voters**

52. The council may, by bylaw, provide for a system of enumeration or registration of the names of persons entitled to vote at an election.

**Posting of the list**

53. The clerk shall on the first Wednesday of September in each election year post a copy of the preliminary list of electors in the municipal office, and

- (a) in at least four conspicuous places in the municipality, if it is not divided into polls, or
- (b) in at least one conspicuous place in each polling division, if the municipality is divided into polling divisions,

and the copies of the preliminary list shall remain posted until the sitting of the Board of Revision.

**Board of Revision**

54.(1) The council shall establish a Board of Revision for the municipality and shall appoint the members thereof who shall hold office during pleasure, but no member of the council and no employee of the municipality shall be a member of the Board of Revision.

(2) Not less than three persons shall be appointed as members of the Board of Revision and the board shall elect one of their members to be chairperson of the board.

(3) Every member of the Board of Revision shall, before entering upon his duties take and subscribe the oath or affirmation as set out in the prescribed form.

(4) The council shall, by bylaw, prescribe a fee to be paid to members of the Board of Revision.

**Chairperson, quorum and sittings of the board**

55.(1) The board shall be presided over by the chairperson, or in his absence by a chairperson chosen from among the members present.

(2) The clerk of the municipality shall act as the clerk of the Board of Revision and shall record its proceedings.

(3) In the absence of the clerk, the board may appoint another person to act in his place.

(4) A majority of the members of the Board of Revision constitutes a quorum of the board and if a quorum is not present, the board shall stand adjourned to the next day, not a holiday, and from day to day thereafter until there is a quorum.

(5) The Board of Revision shall sit on the first Monday in October of each election year, and shall continue to sit from day to day if so required.

**Delivery of list to the board**

56. The clerk shall, at least 48 hours before the day fixed for revision of the preliminary list of electors, deliver to each of the members of the Board of Revision a copy of the preliminary list of electors.

**Applications for revision of the list**

57. Any person who is eligible to vote at an election may apply to the Board of Revision to have the preliminary list of electors revised on the ground that the name of

- (a) an eligible voter is omitted therefrom,
- (b) an eligible voter is incorrectly set out therein, or
- (c) a person not eligible to vote is included therein.

**Application procedure**

58.(1) Any person eligible to vote at an election who wishes to apply for revision of the preliminary list of electors under section 57 may make such application on or before the last Monday in September by leaving with the clerk written notice of his application.

(2) The notice of application for revision of the preliminary list of electors shall fully set out

- (a) the name of the person in respect of whom the application is made,
- (b) the nature of the revision that is sought,
- (c) the grounds upon which the application is made, and
- (d) the name, residence and mailing address of the person making the application.

(3) The clerk shall give notice of the application for revision to any person, other than the applicant who the applicant alleges is

- (a) an eligible voter whose name is incorrectly set out in the preliminary list of electors, or
- (b) a person who is not eligible to vote.

(4) The notice required by subsection (3) may be given by ordinary mail addressed to the address shown on the preliminary list of electors for the person who is entitled to be given the notice.

**Notice of revision hearings**

59. Notice of the time and place fixed for the sitting of the Board of Revision shall be issued by the clerk at least ten days before the day fixed for the sitting of the board of Revision and shall be

- (a) published in a newspaper circulating within the municipality, and
- (b) posted in the municipal office, and
  - (i) in at least four conspicuous places in the municipality, if the municipality is not divided into polling divisions, or
  - (ii) in a conspicuous place in each polling division, if the municipality is divided into polling divisions.

**Revision of the list**

60.(1) The Board of Revision shall hear all applications made pursuant to section 57.

(2) If in respect of any application the Board of Revision is satisfied that the preliminary list of electors should be corrected, then the Board of Revision shall revise the preliminary list of electors accordingly.

(3) Where the name of a person qualified to vote is incorrectly spelled, is duplicated, or where a person is not properly described in the preliminary list of electors, the Board of Revision may correct such spelling, duplication or description notwithstanding the absence of any notice or application required by this Act.

**Revised list of electors**

61.(1) All corrections and revisions made in the preliminary list of electors by the Board of Revision shall be shown thereon in red ink, and the preliminary list of electors so corrected and revised shall be certified by the Board of Revision as being the revised list of electors for the municipality.

(2) The revised list of electors shall be the list of qualified electors for the general municipal elections and for all subsequent elections until such time as a new revised list of electors is prepared.

**Delivery of the revised list**

62. The chairperson of the Board of Revision shall deliver a copy of the revised list of electors to the clerk and to the returning officer within nine days after the board commences its sitting.

**Copies of the list**

63. The clerk shall cause to be printed as many copies of the revised list of electors with the names of the electors appearing thereon as the returning officer may deem necessary.

**Posting of the revised list**

64. The returning officer shall on the third Monday in October in each election year post a copy of the revised list of electors in the municipal office, and

- (a) in at least four conspicuous places in the municipality, if the municipality is not divided into polling divisions, or
- (b) in a conspicuous place in each polling division if the municipality is divided into separate polling divisions,

and the copies of the revised list of electors shall remain so posted until the day after polling day.

**DIVISION 6 - NOMINATION**

**Nomination day and polling day**

65. Nomination day for the offices of mayor and councillor shall be the last Monday in October, and if it is necessary to hold a poll, polling day shall be the second Thursday of November.

**Notice respecting nomination proceedings**

66.(1) Notice of the time and places fixed for holding nomination proceedings shall be issued by the returning officer, and such notice shall be in the prescribed form.

(2) The nomination notice referred to in subsection (1) shall be

- (a) published in a newspaper circulating within the municipality, and

- (b) posted in the municipal office and
  - (i) in at least four conspicuous places in the municipality, if the municipality is not divided into polling divisions, or
  - (ii) in a conspicuous place in each polling division, if the municipality is divided into polling divisions
 by the returning officer at least six days before nomination day.

### **Nomination requirements**

**67.** No person shall be nominated as a candidate unless such person

- (a) is qualified to be elected in accordance with section 34,
- (b) has been nominated in writing by ten persons who are, to the best of his knowledge and belief, electors, and
- (c) has delivered or caused to be delivered to the returning officer between the time of the nomination notice and 12 o'clock noon on nomination day, a nomination paper in the prescribed form, together with a declaration administered by the returning officer, clerk or notary public in the prescribed form.

### **Nomination papers**

**68.(1)** A nomination paper shall contain

- (a) the name and address of the person being nominated,
- (b) a statement subscribed to by the persons mentioned in paragraph 67(b), and
- (c) the written consent of the person being nominated.

(2) An elector may subscribe as many nomination papers as there are candidates to be elected, but each candidate shall be nominated by a separate nomination paper.

(3) The returning officer shall, if requested to do so, give a receipt to the person who delivers to him a nomination paper with the accompanying declaration.

### **Proceedings on nomination day**

**69.(1)** The returning officer shall be present between the hours of ten o'clock in the forenoon and 12 o'clock noon on nomination day at the place appointed by the council for the holding of nomination proceedings, and shall at 12 o'clock noon announce to the electors present the names of all electors who have been nominated as candidates in accordance with the provisions of this Act.

(2) The returning officer shall not permit any speeches or interruptions during the nomination proceedings referred to in subsection (1).

### **Election, acclamation and filling of vacancies**

**70.(1)** At the conclusion of nomination proceedings,

- (a) if the number of candidates for the vacant offices exceeds the number of vacancies, the returning officer shall proceed to hold a poll pursuant to this Act, and
- (b) if the number of candidates for the vacant offices equals or is less than the number of vacancies, the returning officer shall declare those candidates elected.

(2) If there are, on nomination day, fewer persons nominated as candidates for office than there are members to be elected, the council shall cause the Executive Council Member to be notified of the number of vacancies, and the Commissioner in Executive Council may fill such vacancies by the appointment of persons eligible pursuant to section 34, or may direct council to hold one further nomination for the remaining vacant positions prior to filling the vacancies by appointment.

(3) A person appointed under subsection (2) shall, if he accepts office, make the prescribed declaration and take the oath of allegiance under the same provisions as if he had been elected.

**DIVISION 7 - NOTICE OF POLL**

**Notice of poll and hours for the poll to be given**

71.(1) The notice of the poll issued by the returning officer shall state

- (a) the name of each candidate, and
- (b) the time and place at which the poll will be open for the purpose of receiving the votes of the electors.

(2) The notice of the poll referred to in subsection (1) shall be posted

- (a) in at least four conspicuous places in the municipality, if the municipality is not divided into polling divisions, or
- (b) in a conspicuous place in each polling division if the municipality is divided into polling divisions

by the returning officer at least seven days before polling day.

(3) The polls shall be open for a minimum of ten consecutive hours between the hours of seven o'clock in the forenoon and 11 o'clock in the afternoon.

(4) Subsection (3) does not apply in relation to a poll established under section 38 or 45.

**Certified list of candidates**

72. At the close of nominations, the returning officer shall, at the request of a candidate or agent, deliver to him a certified list of all candidates.

**DIVISION 8 - PREPARATIONS FOR THE POLL**

**Ballot boxes**

73.(1) The clerk shall have ready at all times at least as many ballot boxes as there are polling stations in the municipality.

(2) The ballot boxes shall be made of some durable material, shall be provided with a lock and key, and shall be so constructed that the ballot paper can be introduced therein and cannot be withdrawn therefrom unless the box is unlocked.

(3) Where it becomes necessary for the purposes of an election to use the ballot boxes, the clerk shall, before the polling day, deliver a sufficient number of ballot boxes to the returning officer appointed for the purposes of the election.



**Printing of ballot papers**

74.(1) Where a poll is granted, the returning officer shall forthwith cause to be printed, at the expense of the municipality, such a number of ballot papers in the prescribed form as will be sufficient for the purposes of the election.

(2) The number of ballot papers printed in accordance with subsection (1) shall be not less than the number of electors on the revised list of electors.

**Contents of ballot papers**

75.(1) Separate ballot papers shall be used for the election of the mayor and for the election of councillors.

(2) The names of the candidates shall be printed on the ballot paper in the order determined by lot by the returning officer on nomination day.

(3) The name of a candidate shall be printed on the ballot paper in accordance with such reasonable directions as he may give in his nomination papers as to its spelling, or as to the use of a contraction or a nick-name.

**DIVISION 9 - PROCEEDINGS AT THE POLLS****Preparation of ballot boxes**

76. The presiding officer at each polling place, just before the commencement of the poll, shall show each ballot box empty to such persons as may be present in the polling station, so that they may see that it is empty, and then he shall

- (a) lock it up and place his seal upon it in such manner as to prevent its being opened without breaking the seal, and
- (b) place and keep it in his view, locked and sealed, for the receipt of ballot papers.

**Secret ballot**

77. The voting at every election shall be by secret ballot.

**One vote**

78.(1) No elector shall vote more than once for each candidate to be elected.

(2) A person who contravenes subsection (1) or who obtains, except under the provisions of section 91, more than one ballot paper for any election or submission, at the same or some other polling place within the municipality, shall, on summary conviction, be liable to a penalty of \$100, and a person so convicted is not eligible as a candidate nor entitled to vote at any municipal election in the municipality for a period of two years following the date of his conviction.

(3) The provisions of this section do not apply to the returning officer who shall only vote in accordance with the provisions of sections 112 and 117.

**Duty of officers to receive the votes of electors**

79. Subject to the provisions of subsection 80(2), the returning officer or deputy returning officer at any municipal election shall receive the vote of any person whose name he finds in the revised list of electors furnished to him for use at the election.

**Challenges**

80.(1) If a person offering to vote at any municipal election is challenged as unqualified by the returning officer or deputy returning officer or by any candidate or his agent, or by a duly qualified elector, the returning officer or deputy returning officer shall require the person so offering to vote to take an oath in the following form, to be administered to him by the returning officer or deputy returning officer:

“I swear (or solemnly affirm)

- (a) that I am legally qualified to vote at this election,
- (b) that I am the person referred to as ..... in the list of electors being used in this election or my name does not appear on the list of electors,
- (c) that I have not voted before in this election at this or any other polling station,
- (d) that I am of the full age of 19 years,
- (e) that I am a Canadian citizen, and
- (f) that I have not, directly or indirectly, received any reward or gift, nor do I expect to receive anything in respect of the vote for which I now apply.

So help me God.”

(2) Notwithstanding section 79 or 84, any person who is challenged and who refuses to take the oath shall not be permitted to vote.

**Entries respecting challenges**

81.(1) Where an elector takes the oath, the returning officer or deputy returning officer shall enter, opposite the name of the elector in the list of electors, the word “sworn”.

(2) Where the vote of a person is objected to by a candidate or his agent, the returning officer or deputy returning officer shall also enter the objection in the list of electors opposite the name of the elector using the words “objected to”. and adding the name of the candidate.

**Powers of returning officers and deputies**

82. A returning officer or deputy returning officer appointed to attend at a polling place has the power to ask the questions and receive the declarations or oaths authorized by law to be asked of and made by electors.

**Omission from printed list**

83. When the name of a qualified elector appearing on the electors list certified under section 61 has been omitted from the revised list of electors printed by the clerk in accordance with section 63, the clerk may authorize the returning officer or deputy returning officer at the proper polling place to supply a ballot paper to that person, and that person may apply for and be given a ballot paper.

**Omission from revised list**

**84.** A person whose name does not appear on the revised list of electors of the municipality is entitled to vote if

- (a) he files with the returning officer or deputy returning officer an application for registration in the form prescribed, and
- (b) he is otherwise qualified to have his name entered upon the list of electors.

**Provision of ballot paper to elector**

**85.(1)** Upon being satisfied that an applicant for a ballot paper is entitled to vote at the polling place where he applies for a ballot paper, the returning officer, deputy returning officer or poll clerk shall furnish the applicant with one of each of the ballot papers to which he is entitled.

(2) A suitable mark shall be made on the list of electors against or through the name of each elector to whom a ballot paper is supplied.

**Voting procedure**

**86.(1)** The elector, on receiving a ballot paper, shall promptly proceed into one of the compartments provided and, while screened from observation, shall mark his ballot paper by making a cross or other mark in the blank space opposite the name of the candidate or candidates for whom he votes, or by making a cross or other mark in the blank space provided for the purpose of indicating whether or not he is in favour of a submission.

(2) The elector shall then fold the ballot paper across to conceal the names of the candidates and any mark he may have made on the face of the ballot paper, leave the compartment without delay and, having exhibited the folded ballot paper to the returning officer, deputy returning officer or poll clerk, shall, without exposing the front of the ballot paper to anyone, deposit it in the closed ballot box.

(3) After depositing his ballot paper, the elector shall promptly leave the polling place.

**Assistance to handicapped electors**

**87.(1)** If the returning officer or deputy returning officer is satisfied that an elector, through infirmity, is unable to enter one of the compartments at the polling place, the returning officer or deputy returning officer may permit such elector to mark his ballot paper in some other convenient place.

(2) If the returning officer or deputy returning officer is satisfied that an elector, through infirmity or inability to read, is unable to mark his ballot paper, or if the elector is unable to enter a compartment, then the returning officer, deputy returning officer or a person designated by the elector may accompany the elector to a convenient place, and there may, at the elector's request and in his presence, mark the ballot paper on behalf of the elector as directed by the elector.

(3) The returning officer, deputy returning officer or other person shall fold the ballot paper as in other cases, carry out the other requirements of section 86, and deposit the ballot paper in the closed ballot box in the presence of the elector.

(4) The returning officer or deputy returning officer shall make a list of the electors for whom he has marked any ballot paper pursuant to this section, with the notation "infirmity" or "unable to read".

**Witness for handicapped electors**

88.(1) An elector who is unable to mark his ballot is entitled to have a person of his choice witness the marking of his ballot.

(2) A person may act as a witness under subsection (1) only once at the same election and only after he has taken an oath in the following form, by the returning officer or deputy returning officer:

"I swear (or solemnly affirm)

- (a) that I will keep secret the name of the candidate or candidates for whom I as witness see the ballot papers of the voter marked, and
- (b) that I have not at this election acted as witness for another elector to observe the marking of a ballot paper.

So help me God."

**Secrecy of the ballot**

89. While an elector is in one of the compartments of the polling place to mark his ballot paper, no other person, except as provided in sections 87 and 88, shall be allowed to enter the compartment or to be in a position to observe the way in which the elector marks his ballot paper.

**Mistaken identity**

90.(1) If a person, representing himself to be a particular elector named on the list of electors, applies for a ballot paper after another person has voted as that elector, the applicant, on taking the oath required under section 80, is entitled to receive a ballot paper and to vote.

(2) Where a person receives a ballot paper under subsection (1), the poll clerk shall note opposite the name of the elector on the list of electors that a second ballot paper has been issued, and shall also note there any objection made under section 82 on behalf of a candidate, and the identity of the candidate.

**Ballot papers inadvertently spoiled**

91. An elector who has inadvertently dealt with his ballot paper in a manner so that it cannot properly be used as a ballot paper may, on delivering to the returning officer or deputy returning officer the ballot paper inadvertently dealt with and proving the inadvertence to the satisfaction of the returning officer or deputy returning officer, obtain another ballot paper in the place of the ballot paper, and the returning officer or deputy returning officer shall immediately cancel and retain the spoiled ballot paper.

**Votes of deputy returning officers and poll clerks**

92. Notwithstanding section 85 a deputy returning officer or poll clerk, if a qualified elector, may vote at the polling place to which he is appointed.

**Time for employees to vote**

93.(1) Every employer shall give every employee who is an elector a reasonable time, while the polls are open, to cast a vote, and in no case shall the time be less than four clear hours during the time the polls are open to cast his vote.

(2) No employer shall make any deduction from the pay of an employee nor impose upon or exact from the employee any penalty by reason only of absence for the purpose of casting a vote.

**DIVISION 10 - MISCELLANEOUS**

**Replacement of election officers**

94.(1) Where a deputy returning officer has died or refuses or does not attend at the time and place required by the returning officer to receive his lists of electors and other election papers, the returning officer shall appoint another person to act in his place as deputy returning officer.

(2) Where, at the time designated for a nomination or poll, the returning officer has died or does not attend to hold the nomination or poll within one hour after the time designated, or no returning officer has been appointed, the clerk or, in the absence or incapacity of the clerk, the person lawfully performing the duties of the clerk, shall act as and be the returning officer at, and shall forthwith proceed to hold, the nomination or poll.

(3) Any person appointed under this section to act as deputy returning officer shall have all the powers and perform all the duties of the deputy returning officer.

(4) Any clerk appointed under this section to act and to be the returning officer shall have all the powers and perform all the duties of a returning officer.

**Disruption of elections**

95.(1) Where a nomination or poll is interrupted or obstructed by a riot or open violence, the returning officer or deputy returning officer shall not terminate the business of the nomination or finally close the poll for that cause, but shall with proper precaution adjourn the nomination or the taking of the poll at that place to the following day.

(2) If necessary, the returning officer or deputy returning officer shall further adjourn the nomination or poll until the interruption or obstruction has ceased, when he shall proceed with the nomination or poll at the original place.

(3) The day when the nomination or poll is concluded shall be deemed to have been the day fixed for the nomination or poll, as the case may be.

(4) Where a nomination is concluded after an adjournment under this section, the poll shall, if practicable, be put off for an equal number of days, and the new day shall be the day of polling under this Act.

**Notice of adjournment of poll**

96. Where a poll has been adjourned by a deputy returning officer, he shall promptly notify the returning officer, who shall not finally declare the state of the poll, or the name or names of the candidate or candidates elected, until the poll so adjourned has been finally closed.

**Returning officers and deputies are peace officers**

97. From the time of the nomination of candidates until the day following the final closing of the election, the returning officer and each deputy returning officer is a peace officer.

**Maintenance of order at elections**

98. For the maintenance of peace and good order at an election, a returning officer or deputy returning officer may require the assistance of all peace officers and other persons present at the election, whether at the nominations or at a polling place.

**Regulation of polling stations**

99. The returning officer or deputy returning officer shall keep order at his polling station, shall regulate the number of electors admitted at a time and shall exclude all persons not entitled, permitted or required by this Act to be present.

**Persons entitled to be in polling places**

100. During polling, a person is not entitled or permitted to be present in a polling place if he is not an election officer, candidate, clerk or agent authorized to be at the polling place, or if he is not an elector for the time being actually engaged in voting, but the returning officer or deputy returning officer may have present, or summon to his assistance, a peace officer to maintain order or preserve the peace, to prevent a breach of the peace, or to remove persons who may, in the opinion of the returning officer or deputy returning officer, be obstructing the polling or wilfully violating any of the provisions of this Act.

**Removal of persons from polling places**

101.(1) Where a person misconducts himself in a polling place or fails to obey the lawful orders of the returning officer or deputy returning officer he may immediately, by order of the returning officer or deputy returning officer, be removed from the polling place by a peace officer or a person authorized in writing by the returning officer to remove him, and the person so removed shall not, except with the permission of the returning officer or deputy returning officer, again be allowed to enter the polling place during the day.

(2) A person removed under subsection (1), if charged with the commission of an offence in the polling place, may be kept in custody until he can be brought before a justice of the peace.

(3) The powers conferred by subsection (2) shall not be exercised so as to prevent any elector who is otherwise entitled to vote at a polling place from having an opportunity to vote at the polling place.

**Arrest of person disturbing election**

**102.(1)** A returning officer or deputy returning officer may arrest, or cause to be arrested by verbal order, and place in the custody of one or more peace officers or other persons for as long as he considers expedient, a person disturbing the peace and good order at an election, or may, under an order signed by him, cause the person to be imprisoned for any such disturbance until the expiration of a period not later than the final closing of the election or of the poll.

(2) No such arrest, detention or imprisonment under subsection (1) exempts in any manner the person arrested, detained, confined or imprisoned from a penalty to which he may have become liable for anything done by him contrary to this Act or otherwise.

**DIVISION 11 - PROCEEDINGS AFTER THE POLL****Sealing of the ballot boxes**

**103.** At the close of the poll the ballot boxes shall be sealed up so as to prevent the introduction of additional ballots.

**Persons attending the counting of the votes**

**104.** The returning officer or deputy returning officer, their assistants, clerks and constables, the candidates and one agent for each candidate for each poll, but no other person except with the approval of the returning officer, may be in the polling place during the opening of the ballot boxes and counting of the votes.

**Counting of the votes**

**105.(1)** The returning officer or deputy returning officer for each polling place, promptly after the close of the poll, shall open the ballot boxes in the presence of the agents, if any, of the candidates, count the votes in the manner prescribed by section 111, and declare the result of the poll at his polling place.

(2) Notwithstanding subsection (1), no ballot box for an advance poll or institutional poll shall be opened until after the final close of all polls on polling day.

(3) If the returning officer or deputy returning officer finds any ballot in other than the appropriate ballot box, he shall transfer it to the appropriate ballot box.

(4) The returning officer or deputy returning officer shall, in counting the votes, reject as invalid any ballot

- (a) for a reason set out in the municipal election bylaw,
- (b) having votes for more candidates than are to be elected,
- (c) having a mark or otherwise having been dealt with in a manner by which the voter could be identified,
- (d) that is unmarked or void for uncertainty, or
- (e) that has not been supplied by the returning officer.

(5) Subject to section 42, the returning officer or deputy returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes, except that he shall personally deal with all ballot papers rejected or ballots objected to during the counting.

**Ballot accounts**

**106.(1)** After completion of the count, the returning officer or deputy returning officer shall make into separate packets, each sealed by him and by those agents of candidates desiring to do so,

- (a) all ballots counted as valid to which no objection has been made,
- (b) all ballots counted as valid to which objection has been made,
- (c) all rejected ballots,
- (d) all the unused and spoiled ballot papers,
- (e) the marked copies of the list of electors, the poll book and the counterfoils of the ballot papers, if any, and
- (f) the list showing the number of electors whose votes were marked by the returning officer or deputy returning officer under the headings "infirmity" and "unable to read".

(2) The returning officer or deputy returning officer shall prepare and sign in duplicate a ballot account showing

- (a) the number of votes given to each candidate and on each submission at that polling place, and
- (b) the number of ballot papers entrusted to him accounted for under the headings of "ballot papers received", "ballots counted as valid", "ballots counted as valid to which objection has been made", "ballots rejected", and "ballot papers unused or spoiled".

(3) The returning officer or deputy returning officer shall place the sealed packets and an original ballot account in the ballot boxes used in his polling place and lock the boxes and attach the key.

(4) The locked boxes and a separate duplicate of the ballot account shall be delivered to the returning officer in accordance with his instructions.

**Recount by the returning officer**

**107.(1)** The returning officer shall arrange to examine the ballot accounts and, where necessary, to count the votes in the presence of the candidates or their agents as soon as practicable after the close of the poll.

(2) Where a count is necessary under subsection (1), the returning officer shall give notice of the time and place of the count to the candidates or their agents, and the count shall be held within 24 hours of the close of the polls on polling day.

**Recount procedure**

**108.(1)** Where a count is held under section 107, the returning officer shall, in the presence of the candidates or their agents, open the ballot boxes and ascertain the results of the poll by counting the votes given to each candidate.

(2) The returning officer may dispense with his count where, in his opinion after examination of the ballot accounts, there is no doubt about the result of the poll and no candidate or his agent has, in writing, requested a count.



(3) The returning officer may limit his count to those polling places requested by a candidate or his agent.

(4) Subject to section 42, the returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes, but he shall personally deal with all ballots objected to or rejected.

(5) The returning officer shall prepare a ballot account for any votes counted by him.

(6) Immediately after examining the ballot accounts and, if he did a count under this section, immediately after counting the votes in any poll under this section, the returning officer shall proclaim elected the candidate or candidates having the highest number of votes for the office or offices for which they have been nominated.

(7) The returning officer shall give the clerk and each candidate a statement in the prescribed form showing the total number of votes cast for each candidate and the number of rejected ballot papers, and post a copy of the statement in the municipal office.

#### **Procedure in the case of a single polling place**

**109.** Where the returning officer is the presiding officer at the only polling place in the municipality during an election and has carried out his duties under sections 105 to 107, he may immediately make the proclamation under subsection 108(1).

#### **Advance polls**

**110.** The provisions of sections 105 to 109 apply, so far as applicable and with the necessary changes, to the votes, ballot papers and ballot boxes used at an advance poll.

#### **Counting procedure of returning officer**

**111.(1)** A returning officer who counts votes under section 108 shall open each ballot box, take out the packets, count and record the number of ballots and ballot papers, and then count the votes, proceeding continuously so far as practicable.

(2) The returning officer in counting the votes shall examine each ballot and call out in a distinct voice the name of the candidates for whom votes are recorded on the ballot, keeping a record of the votes given for each candidate.

(3) The ballots shall be opened and placed on a table with their printed or written faces upward, so that the candidates or their agents can see how the face of the ballots are marked.

(4) The returning officer shall reject ballots for the reasons set out in subsection 105(4), and shall endorse "rejected" on each ballot rejected, adding to the endorsement "rejection objected to" if an objection be made to his decision by a candidate or agent.

(5) Subject only to a recount by the Supreme Court, the decision of the returning officer on a question about a ballot is final.

**Vote by returning officer**

112.(1) A returning officer shall not vote at an election until after the votes have been counted and then only if the votes cast in respect of two or more candidates are equal in number and his vote would break the tie.

(2) A returning officer casting his vote pursuant to subsection (1) shall do so by the drawing of lots for the purpose in the presence of the clerk or a poll clerk and any candidate or agent present at the time.

**Election results and records**

113.(1) The returning officer shall

- (a) proclaim the results of any submission to the electors or the taxpayers immediately after examining the ballot accounts or, if the count was done, after counting the votes, and
- (b) within 24 hours of the close of polls on polling day, give to the clerk a statement in the prescribed form showing the number of votes cast for and against each submission, and post a copy of the statement in the municipal office.

(2) The returning officer shall retain all documents and ballots for an election for a period of eight weeks from the day upon which he proclaims the result of the election and until every proceeding relating to that election pending in the Supreme Court during that period, and of which he has received written notice from a party to the proceedings, has been finally determined, and then, unless otherwise directed by an order of the Supreme Court, shall cause them to be destroyed and shall record the time, place and method of destruction.

**Revision of the list of electors after an election**

114.(1) Within one month after proclaiming the result of the election, or of the submission the returning officer shall

- (a) submit to council a copy of the statement issued by him under section 108 or 113, together with a compilation of the information contained in the ballot accounts, and
- (b) give the clerk the names of all electors who were sworn in at the polls.

(2) Immediately after receiving the names under paragraph (1)(a), the clerk shall incorporate into the list of electors the names of all electors who were sworn in at the polls.

**DIVISION 12 - JUDICIAL RECOUNT**

**Time for recount**

115.(1) Where, on the affidavit of a credible witness, it appears to the Supreme Court at any time within five days after the proclamation of the result of the election that the returning officer or deputy returning officer has, in counting the votes, incorrectly counted the number of votes cast or unlawfully accepted or rejected a ballot, the Supreme Court may, where the majority for a successful candidate is under 50 votes, immediately by order appoint a time to recount the votes.

(2) The time appointed for the recount shall not be more than eight days from the date of the order of the Supreme Court.

(3) Notice of the time appointed for the recount shall be served on the returning officer and on each candidate or his agent not less than four days before the time appointed, or within such other time as the Supreme Court directs.

(4) The Supreme Court may require a clerk of the Court to be present at a recount and may appoint competent persons to assist it in recounting the votes.

**Persons who may attend**

116. The Supreme Court shall decide what persons other than the returning officer, the candidates and their agents, may be present while the recount is taking place.

**Procedure and proclamation of results**

117.(1) The Supreme Court shall proceed as continuously as is practicable to conduct a recount of the votes in the same manner as that prescribed by section 111, and shall verify or correct the ballot account.

(2) Upon the completion of the recount, the Supreme Court shall seal up all the ballots in separate packets, and certify the result to the returning officer, who shall then proclaim the result of the recount by the Supreme Court, and shall, if necessary, amend the statement issued by him under section 108 or 113.

(3) Where there is any equality of votes the returning officer shall determine which candidate is elected as provided in section 112.

**Production of ballots and accounts**

118. The returning officer, or other person in whose possession the ballots and ballot accounts may be, shall, on a written notice from the Supreme Court, produce them at the time and place appointed for the recount, and they shall continue in the custody of the returning officer or other person having lawful custody, subject to the direction of the Supreme Court.

**Security precautions**

119.(1) During a recess or adjournment of a recount, the person who has lawful custody of ballots and other documents relating to the election shall keep them under his seal and the seals of any other parties who desire to affix their seals, and he shall take necessary precautions for the security of the ballots and documents.

(2) During a recount and during a recess of a recount, the Supreme Court shall take and cause to be taken every precaution necessary to ensure that the mode in which an elector has voted or dealt with a ballot paper shall not become known to any person other than the persons lawfully present during the recount.

**DIVISION 13 - CONTROVERTED ELECTIONS**

**Jurisdiction of the Supreme Court**

**120.** The validity of the election of a member of the council, or his right to hold his seat as a member, shall not be called into question or determined otherwise than in accordance with the following provisions, and except as provided by paragraph 132(1)(c), the determination shall be made only by the Supreme Court, whose decision is final.

**Petition to the court**

**121.** A candidate at the election, or any four or more qualified electors, may present a petition verified by affidavit to the Supreme Court requesting that

- (a) the election of a member of the council be declared invalid because the election was not conducted according to law, or because the person proclaimed to be elected was not lawfully elected, or
- (b) a member of the council be declared to have become disqualified from holding office as a member of the council since his election.

**Procedure**

**122.(1)** Every petition to have an election declared invalid shall be filed within ten days from the date upon which the member of the council was finally proclaimed elected, and every petition to have a member of the council declared disqualified to hold office as a member of the council shall be filed within one month after the alleged ground of disqualification came to the attention of the petitioners.

(2) If the Supreme Court is satisfied upon the facts alleged in the petition that there is reasonable ground for supposing that the declaration should be made, it may require the petitioners to deposit \$500 with the Supreme Court as security for the costs of the member of council petitioned against.

(3) The Supreme Court shall hear and determine the matters raised in the petition in a summary manner without formal pleadings.

(4) Subject to this Act, the Rules of Court apply.

(5) The Supreme Court may, in its discretion,

- (a) designate the time and place for hearing of the petition,
- (b) designate the method of taking evidence, either by affidavit or oral testimony, or both, but an allegation of bribery or corrupt practice shall be proved by oral testimony,
- (c) designate the persons who are to be notified of the hearing and how they may be served, and
- (d) give directions for dealing with any matter not otherwise provided for.

**Testimony**

**123.(1)** No witness shall be required to divulge for whom he voted at the election.

(2) Subject to subsection (1), a person shall not be excused from answering a question concerning an election or the conduct of a person in relation to it on the ground of privilege, or on the ground that the answer will tend to subject him to a penalty, but the answer given by a

person claiming privilege, or claiming that the answer will subject him to a penalty, shall not be used in any proceeding under this Act against the person if the Supreme Court gives to the witness a certificate that he claimed the right to be excused on either of the grounds and answered to the satisfaction of the Supreme Court.

### **Decision of the court**

**124.**(1) If the petition is for a declaration that the election is invalid the Supreme Court may make a declaration that the election is valid or invalid, that a person has been elected instead of another, or that a person has not been elected and the office remains vacant.

(2) If the petition is for a declaration that a member of council has become disqualified as a member of council since his election, the Supreme Court may make a declaration confirming the member in his office or disqualifying him from continuing in office as a member of council.

### **Defects not affecting election results**

**125.** The election of a member of council shall not be declared invalid by reason only of an irregularity or failure to comply with a provision of this Act if it appears to the Supreme Court that the election was conducted in good faith and in accordance with the principles laid down by this Act, and that the irregularity or failure did not materially affect the result of the election.

### **Court orders**

**126.** Where it is declared that the election is invalid, or that the election of any person be set aside, the Supreme Court shall order that a person found not to have been duly elected be removed from office, and where it is declared that some other person was duly elected, the Supreme Court shall order that the elected person be admitted to the office immediately after taking the prescribed oaths of office and of allegiance within 30 days of the order.

### **Costs**

**127.**(1) The costs of and incidental to a petition are in the discretion of the Supreme Court, which may

- (a) order by whom and to whom, and in what manner, they shall be paid, and
- (b) fix the amount or direct them to be taxed.

(2) The costs of a successful petitioner shall be paid promptly by the municipality, and the municipality may recover such costs as may be directed by the Supreme Court.

(3) Costs are recoverable in the same manner as a judgment of the Supreme Court.

### **Penalty**

**128.** If the Supreme Court declares that the election of a person as a member of council be set aside, or that he has become disqualified since his election from holding office as a member of council, or if a person appeals unsuccessfully under section 130, the Supreme Court may order the person to pay to the municipality a sum of money, not exceeding \$1,000, as the Supreme Court thinks proper.

**Withdrawal of petition**

129. A person may file a disclaimer under section 130 renouncing all claim to an office notwithstanding the filing of a petition and the Supreme Court may permit the petition to be withdrawn, except where it contains an allegation of bribery or corrupt practice by the person filing the disclaimer.

**DIVISION 14 - VACANCIES**

**Invalid election or disqualification**

130. Where it is alleged that a person elected as a member of council was not validly elected or since his election has become disqualified from holding office as a member of council, his office shall not be vacated, and he shall not be prevented from voting or acting as a member of council unless

- (a) the Supreme Court declares that the person was not validly elected, or that, since his election, he has become disqualified from continuing in office as a member of council,
- (b) that person files a written disclaimer with the clerk renouncing all claim to the office, or
- (c) the council has passed a resolution declaring his office vacant because in its opinion he has become disqualified under this Act from holding office as a member of council.

**Appeal of declaration by council**

131.(1) A person may within five days after the passing of the resolution of the council, appeal to the Supreme Court, which, after making the inquiry it considers necessary and hearing the parties, shall either confirm the resolution or set it aside.

(2) The rules governing an appeal shall, so far as practicable, be those applicable to a petition under sections 121 and 122.

(3) The person appealing is not entitled to vote or act in his capacity as a member of council pending the determination of the appeal, but the appellant's office shall be deemed not to be vacant until the resolution is confirmed by the Supreme Court or until the appeal is abandoned.

**Occurrence of vacancies**

132.(1) The office of a member of council shall be deemed to be vacant where the member

- (a) has filed a disclaimer under section 130,
- (b) has been declared by the Supreme Court not to have been validly elected, or to have become disqualified since his election,
- (c) has his office declared vacant by resolution, and the member has not appealed under section 131 within the time limited for the appeal or the member has so appealed and his appeal has been dismissed or he has abandoned his appeal,
- (d) has appealed unsuccessfully from a resolution of council declaring his office vacant or has abandoned his appeal,
- (e) has resigned or died, or
- (f) has his election deemed null and void under section 135.

(2) Where a member's resignation is to take effect when his successor is sworn in, the office shall be deemed to be vacant for the purpose of subsection (1).

**Resignation from office**

133.(1) The resignation of a member of council from his office shall be effected by submitting a written resignation to the clerk.

(2) A resignation is irrevocable after its submission to the clerk and is effective from the date a successor is sworn in, or at such earlier date as may be stated in the resignation.

**Resignation to run for office of mayor**

134.(1) A councillor may be nominated for the office of mayor if he has deposited his resignation with the clerk prior to nomination day for the office of mayor.

(2) The election to fill a vacancy created by a resignation under subsection (1) may be held at the same time as the election for the mayor, and shall be considered a separate election.

**Failure to take oath of office and neglect of duty**

135.(1) If a person elected to council fails to take the prescribed oaths of office and of allegiance within 40 days after the proclamation of his election, his election shall be deemed to be null and void, and his office declared vacant.

(2) Unless otherwise provided by bylaw, where a member of council is continuously absent, except because of illness or with leave of the council, from the meetings of the council for a period of three months, he is disqualified from holding office for the remainder of his term of office.

**Election to fill vacancy**

136.(1) A nomination to fill a vacancy on council shall be held at a time fixed by council, but no earlier than 30 nor later than 45 days after the vacancy occurs or when the written resignation is submitted to the clerk.

(2) Council may, with an affirmative vote of at least two-thirds of the number of members of which the council is required to consist according to Part 2, appoint a date for the nomination prior to the 30 day requirement mentioned in subsection (1).

(3) The election shall be held under this Part and any bylaws and resolutions of the municipality relating to municipal elections, but if there is a poll, the poll shall take place on the third Thursday after the nomination.

(4) Where a vacancy occurs after July 1 in the last year of the term of a member of council, the council may hold the vacancy open until the next general election, but this subsection ceases to apply if council is unable to maintain a quorum.

**Failure to fill a vacancy**

137.(1) Where the general or other municipal election is not held or no proceedings have been taken within the time required to fill a vacancy, the Executive Council Member may issue a warrant to the clerk or if there is no clerk, to another person, requiring him, ten days after the

date of the warrant, to fix the day for the nomination and election of a new mayor or councillor, as the case may be.

(2) Where no bylaws or resolutions regulating elections are in force in the municipality, the Commissioner in Executive Council may make regulations for holding the election.

**Term of office**

138. A person elected or appointed to fill a vacancy holds the office only for the unexpired term of the member in whose place he has been elected or appointed.

**Disasters and emergencies**

139. In the event of the occurrence of a peace time disaster or emergency within the meaning of those terms as used in the Civil Emergency Measures Act that prevents the operation of this Act for the declaring or filling of a vacancy on the council, the Commissioner in Executive Council may make regulations governing the declaring of such vacancies and the time, conduct of and procedure relating to the election.

**DIVISION 15 - SUBMISSIONS**

**Time for making submissions**

140. A submission that requires the assent of the electors may be made at the time of an election or at such other time as the council may determine.

**Assent of electors**

141. A submission that requires assent of the electors or taxpayers shall be deemed not to have received assent unless

- (a) the submission is submitted to and voted on by the electors or taxpayers in the manner provided in this Act, and
- (b) subject to the other provisions of this Act, a majority of the votes is cast in favour of the submission.

**Contents of submissions**

142.(1) A submission submitted for the assent of electors shall be for a distinct purpose.

(2) A submission submitted for the assent of electors shall not group together two or more purposes, but the bylaw may include purposes incidental to the main purpose.

(3) Where two or more submissions are submitted at the same time, each shall be voted on separately.

**Preparations and procedure**

143.(1) Divisions 10 and 11 apply, with necessary changes and so far as applicable, to voting on a submission.

(2) The council shall arrange for the vote and determine the day for the poll.



**Polling day**

**144.**(1) Polling day for a submission directed by the Executive Council Member to be submitted for the assent of electors or taxpayers shall not be less than ten days and not more than 30 days after the day of the direction.

(2) Polling day for a bylaw requiring the approval of the Executive Council Member shall be not less than ten days and not more than 30 days after the day on which the approval is given or, if there is more than one approval, the day on which the latest approval is given.

(3) Polling day in every other case where a bylaw is to be submitted for the assent of the electors or taxpayers shall be not less than ten days and not more than 30 days after the day upon which the bylaw receives third reading.

**Publication**

**145.**(1) At least ten days before polling day, the clerk shall post a copy of the submission in the municipal office and

- (a) in at least four conspicuous places in the municipality, if the municipality is not divided into polling divisions, or
- (b) in a conspicuous place in each polling division, if the municipality is divided into polling divisions.

(2) At least ten days before polling day, the clerk shall publish a copy of the submission, the bylaw authorizing the submission or, if directed by council, a synopsis of the submission, in one issue of a newspaper published or circulating in the municipality.

(3) There shall be appended to each copy of a submission or synopsis published or posted under this section a notice signed by the clerk in one or more of the following forms with such variation as circumstances require:

- (a) “Take notice that the above is a true copy (or is a synopsis, as the case may be) of a proposed submission upon which the vote of the electors of the municipality will be taken at ..... (mention all polling places, days, and hours) and that ..... has been appointed returning officer for the purpose of taking and recording the vote. (In the case of a synopsis, add: “And take notice that the full submission bylaw may be inspected at the following places and times, namely ..... and that the synopsis is not intended to be and is not to be understood as an interpretation of the submission.”);
- (b) “Take notice that the above is a true copy of the bylaw authorizing the submission of a question for the assent (or opinion, as the case may be) of the electors of the municipality and that the vote of electors of the municipality will be taken at ..... (mention all polling places, days, and hours) and that ..... has been appointed returning officer for the purpose of taking and recording the vote.”

(4) Notices under subsection (3) shall be dated and signed by the municipal clerk.

**Procedure**

**146.**(1) A vote on a submission shall be by ballot, in such form that a voter may indicate his assent or dissent by making the prescribed mark opposite the word "yes" or the word "no".

(2) The returning officer shall determine the persons who may be present at the poll and at the counting of the votes.

**DIVISION 16 - CORRUPT PRACTICES**

**Offences**

**147.** It is an offence for a person,

- (a) having already voted at a municipal election, to present himself again to vote at the same election,
- (b) without due authority, to supply a ballot paper to any person,
- (c) fraudulently to put into the ballot box any paper other than a ballot paper that he is authorized to put in the box,
- (d) fraudulently to take a ballot paper out of a polling place,
- (e) without due authority, to destroy, take, open or otherwise interfere with a ballot box or packet of ballots,
- (f) to interfere or attempt to interfere with a voter in marking his ballot,
- (g) to communicate information as to the candidate for whom any voter has voted or to induce a person to display a ballot paper so as to make known to him or to any other person the manner in which he has voted, or for or against whom he has marked his ballot paper,
- (h) being a duly appointed election officer, to neglect or refuse to discharge any duty under this Part,
- (i) to aid, incite, counsel, facilitate or otherwise be a party to the commission by any person of an offence under this Act, or
- (j) publicly, campaign either for himself or on behalf of a candidate in any municipal election on polling day.

**Offences**

**148.**(1) It is an offence for a person, directly or indirectly, by himself or by another person on his behalf, to use force, violence or restraint, or to inflict or threaten to inflict injury, damage, loss, or harm in any other manner, to practise intimidation against a person to induce or compel the person to vote or not to vote, or in any way to prevent or otherwise interfere with the free exercise of the franchise of any voter.

(2) It is an offence for a person, directly or indirectly, or by any other person on his behalf, to give, lend, or offer or promise any money or valuable consideration, or give or procure, or agree to give or procure, or offer or promise, any office, place or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting at any municipal election or upon any submission, or who corruptly does any such act on account of such voter having voted or refrained from voting at such election or upon any such submission.

(3) The actual personal expenses of any candidate and bona fide payments for the fair cost of printing and advertising shall be held to be expenses lawfully incurred and the payment thereof shall not be a contravention of this section.

### **Offences**

**149.** It is an offence for a person

- (a) to forge, counterfeit, fraudulently alter, deface or destroy a ballot paper or the initials of the deputy returning officer signed on it,
- (b) not being a person entitled under this Act, to possess a ballot paper,
- (c) being a deputy returning officer, fraudulently to put, otherwise than as authorized by this Act, his initials on the back of any paper purporting to be, or capable of being used as, a ballot paper at an election,
- (d) with fraudulent intent, to print a ballot paper or what purports to be or is capable of being used as a ballot paper,
- (e) being authorized by the returning officer to print the ballot papers for an election, to print without authority more ballot papers than he is authorized to print,
- (f) being a deputy returning officer, to place upon a ballot paper, except as authorized by this Act, any writing, number or mark with intent that the elector to whom such ballot paper is to be or has been given may be identified thereby, or
- (g) to attempt to commit an offence specified in this section.

## **DIVISION 17 - PENALTIES**

### **Fine, imprisonment and disqualification**

**150.**(1) Every person who commits an offence under this Part is liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

(2) Every member of council who is convicted of an offence under this Part shall forfeit his seat on the council and is disqualified from being a candidate or elector at any municipal election for the next succeeding three years.

### **Limitation period and disqualification for conviction**

**151.**(1) All proceedings, other than a petition to contest a municipal election, against any person for the commission of an offence shall be commenced within two months after the municipal election at which the offence was committed.

(2) Every person who is convicted of an offence under section 147, 148 or 149 is disqualified from voting at any municipal election for a period of three years from the time of the commission of the offence.

(3) The justice finding any person guilty of corrupt practices under sections 147, 148 or 149 shall report the same forthwith to the clerk of the municipality.

(4) The clerk shall enter in a book to be kept for the purposes the names of all persons who have been adjudged guilty of any corrupt practices and of whom he has been notified by the justice who tried the case pursuant to subsection (3).

## **PART 4**

### **GOVERNMENT AND PROCEDURE**

#### **DIVISION 1 - MUNICIPAL COUNCILS**

##### **Requirement to have a council**

**152.**(1) Every municipality shall have a council, the members of which shall be elected in accordance with the provisions of this Act.

(2) The council of a municipality is a continuing body notwithstanding any general or other election.

##### **Size of council**

**153.**(1) The full council of a village shall consist of a mayor and four councillors.

(2) The full council of a town shall consist of

- (a) a mayor and four councillors, or
- (b) a mayor and six councillors, if authorized by bylaw.

(3) The full council of a city shall consist of

- (a) a mayor and six councillors, or
- (b) a mayor and eight councillors, if authorized by bylaw.

(4) Notwithstanding the other provisions of this Act,

- (a) the council of a village may, by bylaw with the approval of the Executive Council Member, provide for the election of five councillors,
- (b) the council of a town may, by bylaw with the approval of the Executive Council Member, provide for the election of five councillors,
- (c) where pursuant to this subsection, the Executive Council Member has approved the election of five councillors, such councillors shall at the first meeting of the council after such election, designate one of their members to be mayor, and
- (d) every bylaw made pursuant to this subsection shall include a provision setting out the date and place for the holding of the first meeting of the council after the election pursuant to this subsection.

##### **Quorum and vacancies**

**154.**(1) A majority of the whole council is necessary to form a quorum.

(2) No act or other proceeding of the council that is not adopted at a meeting of the council at which a quorum is present is valid and binding on any person.

(3) The proceedings of a council or any committee thereof are not invalidated by any vacancy among its members, by any defect in the appointment of any member, or by the disqualification of any member thereon, so long as a quorum remains in office.

(4) Where the number of members of a council is reduced to less than a quorum by death or physical or mental incapacity, the Commissioner in Executive Council may order that the remaining members of the council shall be deemed to be a quorum until elections are held to fill the vacancy.

**Term of office**

155. Subject to the provisions of this Act, the members of council shall hold office from 12 o'clock noon on the third Monday of November following their election or from the time of their swearing in, whichever is the later, until 12 o'clock noon on the third Monday of November three years later or until their successors are sworn in.

**Exercise of municipal powers**

156. Except as otherwise provided by this Act, the powers of every municipality shall be exercised by the council of the municipality.

**Members to be elected at large**

157. Subject to section 40, every member of council shall be elected from the municipality at large.

**Oaths of office**

158. Every person who is elected mayor or councillor shall, before taking his office, take the oath of office and the oath of allegiance as set out in the prescribed form, before a Supreme Court or Territorial Court judge, justice of the peace or clerk of the municipality, and shall procure from the person administering the oath the completed oath or copy thereof which, before taking his seat on council, he shall deposit with the clerk.

**Corporate seal**

159. Every municipality shall have and maintain a corporate seal which shall be in the clerk's custody.

**DIVISION 2 - MEETINGS OF COUNCIL**

**Place**

160. The council of every municipality shall hold its meetings and transact all business of the corporation within its own boundaries except where the council resolves to hold a meeting or meetings outside its own boundaries.

**Public and private meetings**

161.(1) The council shall hold its meetings openly and no person shall be excluded therefrom except for improper conduct.

(2) The person presiding at any meeting may cause to be expelled and excluded any person who has been guilty of improper conduct at the meeting.

(3) Notwithstanding subsection (1), where a majority of the members present is of the opinion that it is in the public interest to hold a committee meeting of the whole or part of the council on any subject in private, a council may by resolution exclude any person or persons from the meeting, but it has no power at such committee meeting to pass any bylaw or resolution apart from the resolution necessary to revert back to an open meeting.

**Time and frequency**

162.(1) Except as may be otherwise provided for under this Act, the first meeting of council following any general election shall be held before November 30 of the election year at such time and place as may be designated by the mayor, and thereafter the council shall meet as it may determine.

(2) The council shall hold at least one meeting each month.

**Special meetings**

163.(1) A special meeting of the council shall be called by the clerk when he is requested in writing to do so by the mayor or by any two councillors.

(2) A notice of the day, hour and place of the special meeting and, in general terms, the nature of the business to be transacted at the special meeting shall be given at least 24 hours before the time of the meeting by posting a copy of the notice at the municipal office and by leaving a copy of the notice for each member of council at the place to which he has directed such notices to be sent, and no business other than that stated in the notice shall be transacted at that meeting unless all members of the council are present and agree.

**Council procedure bylaws**

164.(1) The council shall by bylaw make rules for calling meetings and governing its proceedings, the conduct of its members, the appointment of committees and generally, for the transaction of its business.

(2) No bylaw relating to council procedures shall be amended except pursuant to notice given in writing and openly announced at a preceding regular meeting of council.

**Acts of council**

165.(1) All acts authorized or required to be done by council shall, except where otherwise provided in this Act, be done or decided by a majority of the members of the council present and entitled to vote.

(2) An act or proceeding of a council is not valid unless it is authorized or adopted by a bylaw or resolution at a duly constituted open meeting of the council.

**Mode of exercise of powers of council**

166. Unless expressly required to be exercised by bylaw, all powers of a council may be exercised by bylaw or resolution.

**Votes**

**167.**(1) The mayor and every councillor present shall vote on every matter, and the vote of the mayor shall be cast last

- (a) unless, in a specific case the mayor or councillor is excused by resolution of the council from voting, or
- (b) unless he is disqualified from voting by reason of pecuniary interest.

(2) The clerk shall, whenever a recorded vote is demanded by a member of the council, or more than a majority is required on a vote, record in the minutes the name of each member present and whether he voted for or against the matter.

(3) Any matter upon which there is an equality of votes shall be deemed to be decided in the negative.

(4) An abstention shall be considered a vote in favour except where the person abstaining is prohibited from voting under section 35.

**DIVISION 3 - MISCELLANEOUS****Remuneration and expenses**

**168.**(1) The council may, subject to any provisions of this Act, provide by bylaw for an annual indemnity to the mayor and to the councillors, and the indemnity for the mayor may be greater than that for the councillors.

(2) A bylaw under subsection (1) may provide that up to one-third of the annual indemnity shall be paid as an allowance to pay for expenses necessarily incurred by the mayor or councillor in the discharge of the duties of his office.

(3) In addition to the indemnity under subsection (1), a council may by bylaw provide for the payment to members of remuneration for attending meetings of the council or its committees, or for performing any other duties as mayor or councillor.

(4) In addition to any allowance referred to in subsection (2), a council may provide for the payment of reasonable allowances for travelling, meals and accommodation, and out of pocket expenses necessarily incurred in attending meetings of the council or its committees, or for performing other duties as mayor or councillor.

**Validity of council actions and decisions**

**169.** No action or decision of council shall be quashed, set aside or declared invalid by reason only that a person sitting or voting as a member was not qualified for municipal office, or has ceased to be qualified.

**Validity of bylaws, contracts and proceedings**

**170.** Where the election of a council has been adjudged invalid, the election of any member thereof has been set aside, the office of any member thereof has been disclaimed, or any member thereof has been declared disqualified from holding office, no bylaw, contract or other proceeding adopted, entered into or taken by the council prior to such adjudication, setting aside, disclaimer or declaration of disqualification shall, if otherwise within the jurisdic-

tion and powers of the council, be invalidated or in any manner attached by reason only of such adjudication, setting aside, disclaimer or declaration of disqualification.

**Minutes of meetings**

171.(1) The minutes of the proceedings of all meetings of the council shall be legibly recorded in a minute book.

(2) The minutes shall be certified as correct by the clerk, adopted by council, and signed by the mayor or other member presiding at the meeting at which they are adopted, and minutes shall be open for the inspection of any person, who may make copies thereof and extracts therefrom at all reasonable times on payment each time of a fee in an amount prescribed by bylaw.

(3) The minutes of the proceedings of any committee of council or of any board or commission established by a council shall be legibly recorded in a minute book and signed by the chairperson or presiding member and, with the exception of minutes relating to matters requiring adoption by the council, the minutes shall be open for inspection by any person, who may make copies thereof and extracts therefrom at all reasonable times upon payment each time of a fee in an amount prescribed by bylaw.

(4) One copy of the minutes referred to in subsections (1) and (3) shall, when adopted, be forwarded forthwith to the inspector.

**Salaried offices**

172. The council shall not appoint any of its members to any salaried office.

**Ancillary powers**

173. Where powers have been specifically allotted to a council, it shall have power to do all things incidental or conducive to the allotted powers.

**DIVISION 4 - POWERS AND DUTIES OF MAYOR**

**Role of the mayor**

174. The mayor of a municipality shall be a member of the council, shall preside over all meetings of the council, and shall be chief executive officer of the municipality.

**Deputy mayor**

175. The council may appoint from among the members a deputy mayor who shall

- (a) in the absence or incapacity of the mayor, have all the powers and duties of the mayor, and
- (b) when the mayor is not absent or incapacitated, and subject to the mayor taking precedence, have such powers and duties as the council may direct.

**Presiding at meetings**

176. At all meetings of the council, the presiding officer shall maintain order and decorum and decide all questions of order subject to appeal to the council as a whole.



**Appeal of mayor's decisions**

**177.(1)** If an appeal be taken by a member of the council from the decision of the mayor, the question shall be immediately put by him and decided without debate, "Shall the chair be sustained?", the mayor shall be governed by the vote of the majority of the members of the council then present and the names of the members of the council voting for or against the question shall be recorded in the minutes, and in the event of the votes being equal the question shall pass in the affirmative.

(2) If the mayor refuses to put the question, "Shall the chair be sustained?", the council shall forthwith appoint one of its members to preside temporarily in lieu of the mayor and, member of the council so temporarily appointed shall proceed in accordance with subsection (1), and in the event of the votes being equal the question shall pass in the affirmative.

(3) Any resolution or motion carried under the circumstances mentioned in subsection (2) is as effectual and binding as if carried under the presidency of the mayor.

**Duties of the mayor**

**178.(1)** The mayor of a municipality shall

- (a) be active in causing the laws governing the municipality to be duly executed and put into force,
- (b) communicate, from time to time, to the council all such information and recommend all bylaws, resolutions and measures which, in his opinion, may tend to the peace, order and good government of the municipality in relation to the powers conferred upon the council by this or any other Act, and
- (c) subject to section 181, establish special committees for any purposes which he considers would be better regulated and managed by means of such committees, and appoint members of the council thereto,

but the proceedings of all such committees shall be subject to the approval of the council, save insofar as such proceedings may be in pursuance of any authority delegated to such committees or any one of them under this Act.

(2) Where a chief administrative officer has not been appointed pursuant to section 188, the mayor shall

- (a) direct all officers and employees of the municipality in the conduct of their work and direct the management and affairs of the municipality, suspend, if deemed necessary, any officer or employee of the municipality and as far as may be in his power, cause all negligence, carelessness, and violation of duty on the part of the officers and employees to be prosecuted and punished, and
- (b) in every case of suspension under this subsection, report to the council at its next sitting, and the council may reinstate any officer or employee who has been suspended or confirm such suspension, or confirm and extend such suspension or dismiss the officer or employee.

(3) Where a chief administrative officer has been appointed pursuant to section 188, the mayor shall

- (a) provide direction to the chief administrative officer on policies adopted by council, and

- (b) suspend, where necessary, an officer of the municipality and cause such officer to be prosecuted or disciplined for any negligence, carelessness or violation of duty on his part.

**Appeal of suspension**

179. An officer or other employee who has been suspended pursuant to section 178 may appeal in writing to the council within five working days of his suspension and the council may, after hearing, in committee or otherwise, an officer or other employee who has appealed his suspension pursuant to this section

- (a) extend, reduce or confirm the suspension of the officer or employee,
- (b) reinstate the officer or employee, or
- (c) otherwise vary any penalty imposed on the officer or employee.

**Membership of mayor on boards and committees**

180. The mayor is ex officio a member of all boards, associations, commissions, committees or other organizations which the council has the right to establish pursuant to this Act, and the mayor when in attendance possesses all the rights, privileges, powers and duties of other members, whether elected or appointed.

**DIVISION 5 - COMMITTEES**

**Establishment and duties of committees**

181. The council may establish committees to consider matters referred to them by council, may appoint the members of such committees, and may require reports of the findings or recommendations of the committees.

**Witnesses and evidence**

182.(1) The council, or any committee thereof, shall have the power under signature of the mayor and the seal of the municipality to summon witnesses for examinations on oath as to any matters connected with or relating to the administration of the municipality.

(2) The council shall by bylaw prescribe the fees and expenses that shall be paid to a witness served with a summons by the council or a committee thereof.

(3) All evidence given before a council or a committee thereof may be given under oath or on affirmation as council directs.

**DIVISION 6 - OFFICERS AND EMPLOYEES**

**Clerk**

183. Council shall by bylaw appoint a clerk who shall hold office during the pleasure of the council.

**Duties of the clerk**

184. The clerk, in addition to the duties and powers which may from time to time be prescribed by the council, shall

- (a) have custody of the corporate seal of the municipality and cause it to be affixed as required,

- (b) attend all meetings of the council and truly record all resolutions, decisions and other proceedings of the council,
- (c) prepare, maintain, and safely preserve the minute books and other records of the transactions and other business of the council and its committees,
- (d) keep the original of every bylaw of the council after having seen to its proper completion,
- (e) furnish copies of bylaws to any person applying therefor and may charge such fee as the council may prescribe, and
- (f) administer oaths and take and receive affidavits and declarations within the municipality required to be taken under this Act or any other Act relating to the municipality.

### **Treasurer**

**185.** The council shall by bylaw appoint a treasurer who shall hold office during the pleasure of council.

### **Duties of the treasurer**

**186.** The treasurer, in addition to the duties and powers which may from time to time be prescribed by the council, shall

- (a) keep or supervise the keeping of all funds and securities of the municipality,
- (b) collect and receive all money belonging or accruing to the municipality from whatever source,
- (c) be responsible directly or indirectly for the receiving and disbursing of the funds of the municipality in accordance with the procedure for so doing as provided by bylaw,
- (d) keep a complete and accurate account of all money received or disbursed by him on behalf of the municipality,
- (e) keep a complete and accurate account of all assets and liabilities of the municipality and of all transactions affecting the financial position of the municipality,
- (f) from time to time in accordance with directions received from council and in any event, at least once a year, prepare a statement of revenues and expenditures of the municipality,
- (g) compile and supply and information relating to the financial affairs of the municipal from time to time required by the inspector, and
- (h) inspect the records of and direct any official of the municipality, or of any administrative body handling municipal funds, in matters involving the responsibility of the treasurer.

### **Municipal cheques**

**187.(1)** Subject to subsection (2), the mayor or acting mayor of the municipality shall sign, jointly with the treasurer, all cheques issued by the municipality.

(2) A council may by bylaw authorize the mayor and treasurer to issue each week, fortnight or month, as the case may be, a single cheque covering the total amount of the weekly, fortnightly or monthly payroll, and such cheque shall be deposited in the bank in a wages account and shall be paid out upon cheques signed by the treasurer alone.

(3) Any signatures required under this section may be printed, lithographed or otherwise mechanically reproduced if so authorized by bylaw of council.

**Chief administrative officer**

188.(1) Council may by bylaw provide for a chief administrative officer, make provision for his appointment and subject to subsection (2) delegate to him any of the administrative powers conferred on council by this Act.

(2) The chief administrative officer shall not have the power to

- (a) pass bylaws or resolutions, or
- (b) appoint or dismiss an officer.

(3) The chief administrative officer shall, under such direction as the mayor may give,

- (a) supervise and direct the affairs of the municipality and officers and employees thereof,
- (b) put into effect and carry out the policies of council,
- (c) provide advice to council,
- (d) inspect and report on all municipal works as often as required by council,
- (e) prepare or cause to be prepared estimates of revenue and expenditures as required by council and submit those estimates to council for consideration,
- (f) prepare, or cause to be prepared, all contracts as directed by council, and
- (g) carry out any other duties required by bylaws or resolutions of council.

(4) The chief administrative officer or other officers as may be prescribed by bylaw have authority to suspend, discipline or dismiss any employee other than an officer and shall, where the suspension is for more than five working days or where any employee is dismissed, report the suspension or dismissal and reasons therefor to council.

(5) The chief administrative officer may, in accordance with conditions and procedures prescribed by council, appoint and dismiss employees, other than employees or officers described in subsection 189(7).

**Officers and employees**

189.(1) The council may by bylaw provide for such officers and employees as may be deemed necessary or expedient for the carrying on of the good government of the municipality and the carrying out of the provisions of this Act.

(2) The council may in the same or in another bylaw prescribe the powers, duties and responsibilities of the officers and employees, but the powers, duties and responsibilities specifically assigned to any officer or employee by this Act shall not be abridged or impaired.

(3) Notwithstanding subsection (2), where the council prescribes the powers, duties and responsibilities of officers and employees, the powers, duties and responsibilities specifically assigned to any officer or employee shall not abridge or impair any of the powers, duties and responsibilities of council.

(4) The council may, in the same or in a separate bylaw, or by means of a collective or other agreement, fix with respect to officers and employees of the municipality

- (a) remuneration and other benefits,
- (b) hours of work and other conditions of employment, and
- (c) the manner of appointment, promotion and dismissal,

and may provide a benefits program comprising some or all of death, illness, accident, retirement and other similar benefits.

(5) The council may by bylaw appoint the same person to two or more offices or positions.

(6) Subject to anything contained in a contract of employment and notwithstanding any bylaw adopted under this section, the engagement of an officer of the municipality

- (a) if lawful cause is not shown, may be terminated only upon reasonable notice or adequate compensation in place of reasonable notice, or
- (b) if lawful cause is shown, may be terminated without notice or compensation in place of reasonable notice.

(7) The following shall be deemed to be officers of the municipality:

- (a) the clerk, treasurer and chief administrative officer;
- (b) any employee designated by bylaw as an officer of the municipality.

### **Conflict of interest**

**190.**(1) No person having an interest, direct or indirect in a contract with the municipality shall be appointed an officer by the council.

(2) No officer shall, during his term of office, have any interest, direct or indirect, in any contract with the municipality except with respect to his appointment as an officer of the municipality, and if an officer acquires such an interest he may be immediately dismissed without notice and without compensation.

(3) For the purposes of this section, the term "contract" is deemed not to include the purchase of a lot for building a home or the supply of a utility or other service of the community, common to all members of the community and at the same rates, nor for the payment of superannuation benefits, group medical or life insurance premiums or income continuance plans which the council may by bylaw provide.

### **Oath of office**

**191.** Every officer appointed by council shall, before assuming his duties, take an oath of office and oath of allegiance as prescribed.

### **Bonding**

**192.** The council may from time to time designate those officers or employees who shall be bonded, for such obligation, in such amount and with such surety as the council directs, and the premiums, if any, shall be paid by the municipality.

**Indemnification**

193.(1) The council may by bylaw provide for a program of indemnification of officers and employees and direct the conditions whereby the municipality may pay any sum required for the protection, defence or indemnification of an officer or employee of the municipality where an action or prosecution is brought against him in connection with the performance of his municipal duties or the conduct of any part of the business of the municipality, and costs necessarily incurred and damages recovered, but the council shall not pay any fine imposed on an officer or employee as a result of his conviction for a criminal offence.

(2) The council may in a bylaw under subsection (1) provide that the municipality will not seek indemnity against its officers and employees where the actions of those officers or employees result in a claim for damages against the municipality by a third party unless the officer or employee has been grossly negligent or has acted contrary to the terms and conditions of his employment or to an order given to him by a person in authority over him.

**DIVISION 7 - BYLAWS**

**Procedure bylaw**

194. Subject to this Act, the council shall by bylaw provide for the procedure to be followed in passing bylaws.

**Bylaws requiring assent or approval**

195.(1) Where, under this or any other Act, a bylaw requires the assent of the electors or taxpayers, such assent shall be obtained before the council adopts the bylaw.

(2) Subject to this Act, where a bylaw requires the approval of the Executive Council Member, such approval shall be obtained before the bylaw receives third reading by council.

(3) Except as otherwise provided, all village bylaws require the approval of the Executive Council Member, and such approval shall be obtained before the bylaw receives a third reading by council.

(4) Notwithstanding any provision of this Act, where a time limit is set for the completion of a matter by bylaw, the council may apply to the Commissioner in Executive Council for an extension of time for adopting the bylaw and the Commissioner in Executive Council may extend the time limit.

**Readings**

196. Every bylaw shall have three distinct and separate readings before it is finally adopted, but no more than two readings may take place at any one meeting.

**Bylaws to be written and signed**

197. Every bylaw shall be in writing under the seal of the municipality and shall be signed by the person presiding at the meeting at which the bylaw is adopted and by the clerk.

**Registration**

198. A true copy of every bylaw adopted by council as signed by the mayor or person presiding at the meeting at which such bylaw was adopted and by the clerk under the seal of the municipality and certified to be a true copy by the clerk, shall be deposited for registration with the inspector.

**Proof of bylaws in court**

199. A copy of a bylaw under the seal of the municipality and certified by the clerk to be a true copy shall be received in any court of law as evidence of the due execution of the contents of it without further proof.

**Rejection of bylaws requiring assent**

200. If a bylaw requiring the assent of the electors or taxpayers is rejected, no other bylaw for the same purpose may be submitted to the electors or taxpayers for six months, except with the approval of the Executive Council Member.

**Ancillary powers**

201. Except as otherwise provided in this Act, the power to make bylaws, regulations, rules, orders or resolutions shall include power exercisable in the like manner and subject to the like consent and conditions, if any, to amend, vary, consolidate, repeal, rescind or revoke the bylaws, regulations, rules, orders or resolutions and make others.

**Amendment of loan authorization bylaw**

202. Notwithstanding section 201,

- (a) no loan authorization bylaw shall be amended or repealed by the council, except with the approval of the Executive Council Member, and
- (b) where such approval is given, the Executive Council Member may direct that the council shall not be required to obtain the assent of the taxpayers of the municipality or a part of the municipality where such assent would otherwise be required.

**Amendment of loan authorization bylaw**

203. Notwithstanding section 202, a bylaw other than a bylaw for contracting debts by borrowing money or otherwise, to which the assent of the electors has been given may, with the approval of the Executive Council Member, be amended or repealed without the assent of the electors.

**Offence for violating Act or bylaw**

204. Every person who violates or fails to comply with the provisions of this Act or any bylaw made thereunder commits an offence.

**Procedure for offences**

205. Every violation or failure to comply with the provisions of any bylaw made under this Act may be proceeded with in accordance with the procedures set out in the Summary Convictions Act.

**Quashing of bylaws**

206.(1) A judge, upon application by any resident of a municipality or by any person interested in a bylaw of the municipality, may quash a bylaw in whole or in part for illegality and may award costs of the application according to the result thereof.

(2) Notice of the application referred to in subsection (1) shall be served upon the municipality at least seven days prior to the date upon which the application is to be made, and the applicant shall give security to the Supreme Court in the amount of \$500 for any costs that may be awarded against him.

**Limitation period**

207.(1) No application shall be made to quash a bylaw of a municipality after the expiration of one month following the final adoption of the bylaw.

(2) Notwithstanding subsection (1), where a bylaw requiring the assent of the electors or taxpayers of the municipality has not been submitted to or has not received the assent of the electors or taxpayers, application to quash that bylaw may be made at any time.

**Notice of action**

208.(1) Where a bylaw is illegal in whole or in part and where anything has been done under it that by reason of the illegality gives any person a right of action, no action shall be brought until one month after notice in writing of intention to bring the action is given to the clerk.

(2) Every action referred to in subsection (1) shall be brought against the municipality alone and not against any person acting under the bylaw.

**PART 5  
POWERS AND DUTIES OF COUNCIL**

**DIVISION 1 - FINANCE OPERATIONS**

**Provisional operational budget**

209.(1) On or before December 31 in each year, council shall adopt a provisional operational budget for the succeeding year.

(2) Until an annual operational budget is adopted, no expenditure shall be made that is not provided for in the provisional operational budget as adopted or amended by council.

**Provisional budgets of villages**

210. Notwithstanding section 209, a village shall submit its provisional operational budget to the Executive Council Member for approval in whole or in part on or before December 15 in each year.

**Annual operational budget**

211.(1) On or before April 15 in each year, the council shall cause to be prepared the annual operational budget for the current year, and shall by bylaw adopt the annual operational budget.



(2) Council may apply to the Executive Council Member for an extension of time for submitting its annual operational budget, and if such extension is approved by the Executive Council Member the provisional operational budget shall remain in force for such period as allowed by the Executive Council Member.

(3) Notwithstanding subsection (1), a village shall submit its annual operational budget to the Executive Council Member for approval on or before March 15 in each year.

**Authorized expenditures**

**212.** Subject to section 209, no expenditure shall be made that is not provided for in the annual operational budget as adopted or amended by council.

**Increase of budget expenditures**

**213.** The annual operational budget shall not be amended, altered or varied in a manner which increases the total expenditures except by bylaw.

**Form and contents of budgets**

**214.(1)** An operational budget prepared under this Act shall be set out in the prescribed format and shall include a detailed estimate of

- (a) the anticipated expenditures of the municipality for the next ensuring fiscal year, including
  - (i) the sum or sums necessary for municipal purposes and to meet debt repayment instalments and interest payments falling due during the fiscal year,
  - (ii) such sums as may be necessary to meet the ordinary expenditures of the municipality, as determined by the council, and
  - (iii) such sums as the council may consider desirable and necessary to set aside to create a fund for future specified expenditures,
- (b) the anticipated revenues of the municipality for that year derived from taxes and sources other than taxation, and
- (c) any accumulated surplus from previous years appropriated for the current operational budget.

(2) A copy of the operational budget prepared under subsection (1) shall be annexed to the minutes of the meeting in which it is adopted.

**Investments**

**215.(1)** The council may by bylaw authorize the treasurer to invest any operating surpluses of the municipality or other money of the municipality that is not required for immediate disbursement in any of the securities referred to in subsection (2), or in notes or deposit receipts of chartered banks, and to dispose of any investment so made whenever necessary to meet expenditures.

(2) The securities referred to in subsection (1) are

- (a) any stocks, debentures or securities of the Government of Canada or any province,
- (b) any debentures or securities the payment of which is guaranteed by the Government of Canada or by any province, and

- (c) in any investments authorized for insurance companies by the Canadian and British Insurance Companies Act (Canada) other than investments under subsection 63(4) of that Act.

(3) The power to invest conferred by subsection (1) includes the power to reinvest the operating surplus of the municipality or other surplus in the securities referred to in subsection (2), to sell, assign or transfer them, and to call in and vary the investments for others of a like nature.

**Reserve funds**

216.(1) Council may by bylaw establish one or more reserve funds in the name of the municipality.

- (2) A bylaw to establish a reserve fund shall specify
  - (a) the purpose for which the reserve fund is established,
  - (b) whether or not the reserve fund is cash funded,
  - (c) the method of calculating contributions to the reserve fund, and
  - (d) the criteria and conditions governing withdrawals from the reserve fund.

**Capital expenditure programs**

217.(1) On or before May 15 in each year, council shall cause to be prepared and adopted by bylaw a capital expenditure program for a period of not less than five years showing estimates of the proposed source and application of funds for capital projects for each year of the program.

(2) The capital expenditure program adopted under subsection (1), including amendments, remains in force and effect until a new capital expenditure program is adopted the following year.

(3) Except with the approval of the Executive Council Member, the capital program shall not be varied either by amendment or by the adoption of a new program with respect to any proposed expenditure for which the Executive Council Member has approved the borrowing of money.

**Requirement for taxpayer assent**

218.(1) Except as permitted under subsection 228(3), where a council proposes an expenditure on any capital item or aggregation of capital items in one scheme and the expenditure exceeds one-quarter of one percent of the total current assessed value of all real property within the municipality that is subject to property taxes or grants in lieu of property taxes, the council shall not authorize the expenditure unless the taxpayers assent to the expenditure.

(2) Where the assent of the taxpayers is required under subsection (1), the procedures established under sections 228, 229 and 230 for obtaining that assent shall be followed with such changes as may be necessary.

(3) A bylaw for the expenditure of money pursuant to subsection (1) shall not be required where a bylaw to borrow money has been submitted pursuant to the provisions of this Act.

(4) Notwithstanding this section, where a council has placed money in a revolving fund for the replacement of equipment, expenditures may be made from such a fund without a vote of the taxpayers.

(5) For the purposes of subsections (1) and (2), where the cost of the capital item or aggregation of capital items in one scheme is being shared by the municipality and the Government of the Yukon or the Government of Canada, the expenditure proposed by council shall be deemed to be only the share of the cost that will be paid by the municipality, rather than the entire cost of the item or items.

### **Expenses and airports**

#### **219.(1) The council may expend money**

- (a) for the reception and entertainment of distinguished guests,
- (b) for paying all or some of the expenses of delegates, whether members of the council or otherwise, when, on instructions of the council, they are representing the municipality outside the limits of the municipality,
- (c) for paying all or some of the expenses necessarily incurred by members of the council when they are engaged in or about the business of the municipality,
- (d) for paying all or some of the expenses necessarily incurred by employees of the municipality when they are engaged in or about the business of the municipality,
- (e) for honouring persons who have in the opinion of the council served or brought honour to the municipality, and
- (f) for such other matters as the Commissioner in Executive Council may prescribe.

(2) Any payments under subsection (1) for the expenses of a member of the council shall be additional to any payments under section 168.

(3) The council may by bylaw establish and operate airports and seaplane harbours for aircraft.

(4) A bylaw under subsection (3) may, with the approval of the Executive Council Member, provide for the establishment and operation of the works beyond the boundaries of the municipality.

### **Grants**

#### **220.(1) A council may by bylaw make grants to any person or association of persons.**

(2) If any grant under subsection (1) would reduce property taxes levied or fees established for services that are provided, then the grant shall not be made without the approval of the Executive Council Member.

**DIVISION 2 - RAISING OF REVENUE**

**Property taxes and service charges**

221.(1) Subject to this Act, and the Assessment and Taxation Act, council may adopt bylaws providing for the raising of revenue by the imposition and collection of a tax upon real property in the municipality and by the imposition and collection of service charges imposed in respect of local improvements.

(2) Taxes shall be levied in accordance with the Assessment and Taxation Act as council deems necessary, in order to provide for the raising of revenue sufficient to meet the estimated expenditures of the municipality for that year and to provide any levy of school tax.

**Other revenues**

222. In accordance with the provisions of this Act council may by bylaw

- (a) impose and collect business licences and fees, inspection fees, parking fees, utility charges, and recreation fees, and
- (b) take into revenue fines, interest on deposits and investments, any charges for the operation of any services or utilities under the control of council, and such other funds as the municipality may acquire.

**Sale of property bought with borrowed money**

223. Where borrowed money is used to purchase an asset of the municipality and the asset is sold or any interest in it is disposed of for consideration, the debt in respect of its purchase shall first be satisfied before the proceeds of the sale or disposition are used for any other purpose.

**DIVISION 3 - DEBT RESTRICTIONS**

**Liabilities in relation to revenues**

224.(1) The council shall not incur any liability beyond the amount of the municipal revenue for the current year and any of the accumulated revenue surplus of prior years appropriated for the annual operational budget or the annual operational budget as amended, except as provided in this Act.

(2) Notwithstanding subsection (1), the council may contract for the supply of materials, equipment and services, professional or otherwise, required for the operation, maintenance and administration of the municipality and of municipal property.

(3) The council shall not borrow in anticipation of current revenue, save as hereinafter provided in this Division.

**Borrowing for current expenditures**

225.(1) Notwithstanding any other provision of this Act, the council may, without the assent of the taxpayers or the approval of the Executive Council Member, by bylaw provide for the borrowing of such sums of money as may be requisite to meet the current budgeted expenditures of the municipality.

(2) The total of the outstanding liabilities incurred under subsection (1) shall not at any time exceed the sum of the whole amount remaining unpaid of the taxes for all purposes levied during the current year and the whole amount of any sums of money remaining due from other governments.

(3) Prior to the levying of taxes in any year, the amount of the taxes during the current year for the purposes of subsection (2) shall be deemed to be 75 percent of the whole amount of the taxes levied in the immediately preceding year.

(4) Where money is borrowed pursuant to this section, all unpaid taxes and the taxes of the current year when levied, or so much thereof as may be necessary, shall when collected be used to repay the money so borrowed.

**Borrowing powers and obligations**

**226.**(1) Subject to this Act, the council may by bylaw authorize the borrowing of money for municipal purposes.

(2) No money borrowed by a municipality shall be used for any purpose other than that stated in the bylaw, except that if, on completion of the work for which the money was borrowed, there remains an unexpended balance, the balance shall be used by the municipality

- (a) for the payment of any interest payable in respect of the loan,
- (b) for the repayment of the principal amount of the loan, or
- (c) for such other purposes and upon such terms and conditions as the council with the approval of the Executive Council Member deems expedient.

**Borrowing limits**

**227.**(1) Notwithstanding subsection 228(3), the total principal amount of debt that a municipality may owe at any time shall not exceed two percent of the current assessed value of all real property within the municipality that is subject to property taxes or grants in lieu of taxes unless both the Executive Council Member and the taxpayers assent to the bylaw that authorizes borrowing in excess of that limit.

(2) Except as permitted under subsection 228(3), the total amount that a municipality may borrow in any fiscal year shall not exceed one quarter of one percent of the current assessed value of all real property within the municipality that is subject to property taxes or grants in lieu of taxes unless the taxpayers assent to the bylaw that authorizes borrowing in excess of that limit.

(3) Where an amount is borrowed in accordance with subsections (1) and (2), the bylaw that authorizes the borrowing shall not be rendered invalid by a subsequent reduction in the current assessed value of all real property within the municipality that is subject to property taxes or grants in lieu of taxes.

**Assent requirements**

**228.**(1) Where under section 227 the assent of the Executive Council Member or of the taxpayers is required, no bylaw for the borrowing of money shall be valid unless the required assent is obtained before third reading of the proposed bylaw.

(2) Where under subsection 227(1) the assent of both the taxpayers and the Executive Council Member is required, the assent of the Executive Council Member shall be sought only after the taxpayers have assented.

(3) The assent of the taxpayers is not required for borrowing or expenditure

- (a) when the money to be borrowed or expended is to be used to pay for local improvement works under section 242 and is expended for that purpose, or
- (b) when the money to be borrowed or expended is to be used for capital expenditures for primary municipal services and is expended for that purpose.

**Procedure for obtaining assent**

229. Where the assent of taxpayers is required, the provisions of sections 140 to 146 governing submissions shall apply.

**Procedure after assent is received**

230. If a bylaw for which the assent of the Executive Council Member or the taxpayers is required receives the necessary assent, the council may adopt the bylaw or refuse to adopt it.

**Contents of borrowing bylaws**

231. A bylaw to borrow money shall show in detail

- (a) the amount proposed to be borrowed,
- (b) the total existing indebtedness of the municipality,
- (c) the purpose for which the expenditure is to be made,
- (d) the term of the loan,
- (e) the rate of interest payable thereon, and
- (f) the method of repayment.

**Default in loan repayment**

232.(1) Where a municipality is in default of payment of a debt, the Commissioner in Executive Council may require that the municipality not contract any new debt without his approval.

(2) When the Commissioner in Executive Council is satisfied that the municipality is again able to manage its debts, he shall revoke the order under subsection (1).

**Bylaws not having the required assent**

233. Where the assent of the Commissioner in Executive Council, the Executive Council Member, or the taxpayers to a bylaw for the borrowing or expenditure of money is required under this Act, any bylaw that purports to authorize the borrowing or expenditure and that does not have the required assent shall be invalid.

**Consequences of illegal expenditure**

234.(1) Any member of council who votes for any bylaw or resolution authorizing the expenditure of money contrary to the provisions of this Act, and any officer or other employee who obeys any such bylaw or resolution, commits a breach of this Act and is subject to civil liability for his action.

(2) Any sums due the municipality under this section may be recovered by the municipality, by an elector suing in the name of the municipality or suing on behalf of himself and all other electors of the municipality, or by the holders of any security suing in the name of the municipality.

(3) In addition to any other penalty to which he may be liable, any member of a council who votes for any bylaw or resolution authorizing the expenditure of money contrary to the provisions of this Act is disqualified from holding any municipal office for a period of three years from the date of his being convicted of a breach of this section.

(4) Any officer of the municipality who of himself disposes of assets contrary to the provisions of this Act is personally liable to the municipality for the amount thereof.

(5) It is a good defence to any action brought under this section against any officer or employee of a municipality if it is proved that he, in writing over his signature, gave warning to the council that the effect of the bylaw or resolution was to authorize or necessitate the use of money contrary to the provisions of this Act.

(6) It is a good defence to any action brought under this section against any member of council for voting on a bylaw or resolution authorizing the expenditure of money contrary to the provisions of this Act that such member received an opinion in writing, prior to so voting, from an officer of the municipality or the lawyer appointed by council that such bylaw or resolution was a lawful bylaw or resolution and that the expenditure of money pursuant to such bylaw or resolution was not contrary to the provisions of this Act.

#### **DIVISION 4 - AUDIT**

##### **Auditor**

**235.(1)** The council shall by bylaw appoint as auditor one or more persons or a firm of auditors satisfactory to the inspector, but no person or member of the firm of auditors shall be so appointed who, at the time of his appointment or at any time during the immediately preceding fiscal year of that municipality, is or was a member of the council, is or was the treasurer of the municipality, or has or has had, directly or indirectly, alone or with any other person, any share or interest in any contract or employment with or on behalf of the municipality other than for services within his professional capacity.

(2) The clerk shall notify, in writing, the auditor and the inspector forthwith of every appointment made pursuant to subsection (1), and of the termination of engagement of every appointee.

(3) Where the engagement of an auditor is terminated,

- (a) the auditor may within one month of notification of such termination appeal in writing against the decision of the council to the Executive Council Member, who may confirm or set aside the termination,
- (b) the auditor shall file a copy of his notice of appeal with the clerk, and
- (c) the council shall not appoint another auditor until the time allowed for an appeal by the auditor has elapsed or, if an appeal has been made, until the appeal has been dealt with by the Executive Council Member.

(4) The termination of the engagement of an auditor is not effective until his successor has been appointed.

(5) Where, in the opinion of the Executive Council Member, the auditor has discharged his duties in a negligent manner, he may require the council to dispense with the services of the auditor and to appoint another person as auditor.

**Failure of municipality to appoint an auditor**

236.(1) In case a council fails or neglects to appoint an auditor, the Executive Council Member may, upon giving one month's notice of his intention to do so to the council, appoint some qualified person or persons as auditor.

(2) The Executive Council Member may fix the remuneration to be paid by the municipality to the appointee of the Executive Council Member, and may in his discretion place a limit on the period of such appointment.

**Duties of the auditor**

**237.(1) The auditor shall**

- (a) audit and report upon all books and accounts relating to the affairs of the municipality or relating to any matter under its control or within its jurisdiction,
- (b) make such examination as will enable him to report to council as required,
- (c) have right of access at all times to all records, documents, instruments, accounts, vouchers and other components of the financial reporting system of the municipality or of any other administrative body handling municipal matters or funds, and
- (d) submit a report to the council on or before June 15 on the annual financial statements referred to in subsection 241(2) of this Act, and shall state in his report whether
  - (i) his examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests and other procedures as he considered necessary in the circumstances, and
  - (ii) in his opinion, the financial statements present fairly the financial position of the municipality and any other administrative body as at December 31 and the results of its operations for the year then ended, in accordance with this Act and generally accepted accounting principles for municipalities.

(2) The auditor is entitled to require from members of the council or other administrative body, from officials of the municipality or other administrative body, and from any other person, any information or explanation necessary for the performance of his duties.

(3) The auditor shall separately report to the council any disbursement, expenditure, liability or other transaction lacking proper authority under this or any other Act, or under any bylaw or resolution passed under it.

(4) The auditor shall report in writing to the council and to the inspector every defalcation or irregularity dealing with the assets, liabilities, accounts, funds and financial obligations of the municipality and of any other administrative body of the municipality.



(5) In addition to the examination and reports required by this section the inspector or the council may, at any time, require such further examinations and reports from the auditor as may be considered necessary or advisable, or the auditor may on his own initiative make any further examination or reports as he considers necessary or advisable, and this section applies with the necessary changes and so far as it is applicable to those further examinations and reports.

(6) The auditor shall forward to the inspector a copy of every report submitted by him to the council or to any officer of the municipality.

#### **Inspection of auditor's statements by electors**

**238.** Every elector of the municipality may inspect any report or statement which has been submitted to the Council by the auditor and may, by himself or his agent and at his own expense, take a copy thereof or extract therefrom.

#### **Assistance of the auditor**

**239.(1)** Every member of the council, every officer or employee of the municipality, and every member and servant of any other administrative body handling municipal funds shall make available all records, documents, instruments, accounts, vouchers and other components of the financial reporting system of the municipality necessary for the audit or required by the auditor, and shall give the auditor every reasonable facility and furnish full information and explanation concerning the affairs of the municipality or other administrative body necessary for the performance of his duty.

(2) A person who neglects or refuses to comply in any respect with a summons issued in writing by the auditor under subsection (1) commits an offence.

#### **Removal of documents**

**240.(1)** The auditor shall not, without the sanction of the council or without an order of a judge, remove or cause to be removed any money, securities, records, documents, instruments, accounts, vouchers or other components of the financial reporting system of the municipality from the office of the municipality or other place where they may repose for safe-keeping.

(2) An auditor who violates the provisions of subsection (1) is liable, on summary conviction, to a penalty not exceeding \$5,000.

(3) Nothing in this section prohibits the auditor from transferring records, documents, instruments, accounts, vouchers or other components of the financial reporting system of the municipality from one office of the municipality to another office of the municipality for the convenience of the audit.

#### **Financial statements**

**241.(1)** Council shall require the treasurer or other delegated official to prepare financial statements of the municipality as of the preceding December 31 and for the year then ended.

(2) The financial statements referred to in this section shall be prepared and submitted to the auditor no later than the last day of February in each year, and shall include

- (a) balance sheets,
- (b) statements of revenue and expenditures,

- (c) a schedule of all reserve funds,
- (d) a schedule of all debentures, and
- (e) such other information as the inspector may require from time to time upon reasonable notice.

(3) Where any activity of the municipality is carried on by another administrative body, the financial statements may include separate statements for each activity, so long as the items of account of controlling nature appear in the statements required in subsection (2).

(4) The balance sheets referred to in subsection (2) shall be signed by the treasurer or other officer of the municipality, and all financial statements referred to in subsection (2) and the auditor's report or a summary of it shall be published not later than June 30 in each year in a newspaper circulated within the municipality.

(5) Unless otherwise provided, the financial statements published shall include the financial statements of every other administrative body.

(6) The treasurer shall, not later than June 30 in each year, forward to the council and the inspector a copy of the financial statements together with the auditor's report.

(7) A copy of the financial statements and the auditor's report shall be made available at the treasurer's office without charge to any taxpayer or elector who requests a copy of it.

## DIVISION 5 - LOCAL IMPROVEMENTS

### Works that may be done as local improvements

242. Any public work of the following character or description may be undertaken by the municipality as a local improvement:

- (a) opening, widening, straightening, extending, grading, levelling, diverting or paving a street;
- (b) constructing a sidewalk, footcrossing, curbing, bridge, culvert or embankment forming part of a street, or constructing a system of storm drainage;
- (c) making, deepening, enlarging or lengthening a common sewer or water main;
- (d) making sewer or water service connections to the street line on land abutting a main;
- (e) constructing a conduit for wires or pipes along or under a street;
- (f) providing other public works normally found in organized communities;
- (g) reconstructing and replacing any of the works mentioned.

### Bylaws for proposed local improvements

243.(1) A council may by bylaw

- (a) provide for a local improvement,
- (b) prescribe the procedures and conditions according to which petitions for local improvements shall be prepared, presented to and considered by council,
- (c) prescribe the means of determining the parcels of land that will benefit from a local improvement,

- (d) prescribe the means of determining the total cost of a local improvement and the proportion of that cost that is to be levied against parcels of land that will benefit from a local improvement, and
- (e) levy a proportion of the cost of a local improvement against the parcels of land that will benefit from the local improvement.

(2) Each bylaw referred to in subsection (1) shall set forth the time and place at which any objection to the local improvement or the proposed sharing of the cost thereof shall be heard by the council, except that in no case shall the time fixed for the hearing of any such objection be less than two weeks after the time when the last of the notices mentioned in subsection (3) were posted and mailed as required by that subsection.

(3) Before any proposed local improvement is proceeded with, unless the total cost of the improvement is to be assumed by the municipality, the clerk of the municipality shall give notice of such proposed improvement by

- (a) posting a copy of the bylaw in at least four conspicuous places in the immediate vicinity of the lands to be benefited or charged in respect of the improvement, and
- (b) mailing a copy of the bylaw to every person shown on the assessment roll of the municipality as an owner of any land to be benefited or charged in respect of the improvement.

#### **Bylaws for the execution of local improvements**

**244.** Upon receipt of the report, if any, referred to in section 243 and upon hearing any objection to the local improvement or to the proposed sharing of the cost thereof, the council may pass bylaws

- (a) authorizing the execution of the local improvement and determining the probable cost thereof,
- (b) for assessing, levying and collecting by means of a special rate upon the parcels of land directly benefited or upon that land and the municipality as a whole, as the case requires, the cost of any local improvement with interest at the rate of interest used in determining the cost of the work and advertised in the notice, and
- (c) prescribing the time or times at which and the manner in which the amounts levied are to be paid, and specifying the terms on which the parties assessed for the local improvements may commute the assessment by the payment of their proportionate share of the cost thereof in a lump sum.

#### **Improvements paid for by the government**

**245.(1)** Where the Government of the Yukon has incurred the cost of a local improvement within a municipality, the council of that municipality at the request of the Executive Council Member and on his behalf shall by bylaw assess, levy and collect by means of a special rate upon the parcels of land directly benefited or upon that land and the municipality as a whole, as the case requires, the cost of such local improvement with interest at the rate of interest used in determining the cost of the work and advertised in the notice.

(2) Every bylaw passed pursuant to subsection (1) shall provide for the payment of the cost of the local improvement within the probable life thereof.

(3) Where a council has passed a bylaw under subsection (1) the amount of money to be collected under that bylaw shall be paid by the council to the Government of the Yukon forthwith after it becomes due, regardless of whether the municipality has collected the money.

**Improvements benefitting the municipality generally**

246. Where, in the opinion of the council, any work or local improvement benefits the municipality generally and it would be inequitable to raise the whole of the cost thereof by local special levy, the municipality may pay out of the general funds of the municipality a portion of the total cost thereof and such funds shall be identified in the bylaw.

**Time within which improvements must be paid for**

247. Every local improvement bylaw shall provide for the payment of the special levy within the probable life of the local improvement for which the debt has been incurred.

**DIVISION 6 - WORKS AND SERVICES**

**Municipal property**

248.(1) Council may by bylaw acquire for municipal purposes by purchase, gift, lease or otherwise any real property and any rights, easements, privileges in and to real property from Canada or the Government of the Yukon or any person.

(2) Council may by bylaw reserve for a specific municipal or public purpose any land owned by the municipality.

(3) Council may by bylaw remove any reservation issued pursuant to subsection (2).

(4) Council may by bylaw sell by auction or otherwise, on such terms and conditions as deemed advisable, the interest of the municipality in any real property not required for municipal purposes and which is not reserved.

(5) Council may by bylaw lease any real or personal property held or owned by the municipality for any term or terms, including renewal options not exceeding in the aggregate 99 years.

**Expropriation**

249.(1) Subject to the Expropriation Act, the council of a city may, without the consent of the owner, enter upon and expropriate any land that it deems necessary for the public purposes of the municipality.

(2) The council of a town or village may petition the Commissioner in Executive Council to expropriate on their behalf any land that it deems necessary for the public purposes of the municipality, and the Commissioner in Executive Council may, upon assurance from the council that they will bear the costs involved, proceed with expropriation pursuant to the provisions of the Expropriation Act.

**Acquisition of land for resale**

**250.** Notwithstanding any other provision of this Act, the council may by bylaw acquire land within the municipality for resale or lease for residential, industrial, commercial or any other purposes, and may, prior to disposing of the land or any part thereof, subdivide and develop the land.

**Acquisition and construction of buildings**

**251.(1)** Subject to section 228, the council may by bylaw acquire or construct any building required for any municipal purpose, including the housing of any municipal official, or for any business or other operation which the municipality may be authorized to conduct.

(2) The council may by bylaw construct or acquire a building with floor space which is greater than is necessary for the accommodation of the municipal services required and may, subject to subsection 248(5), lease or rent any surplus floor space not required for the municipal services.

**DIVISION 7 - HIGHWAYS****Jurisdiction**

**252.(1)** All allowances made for roads in any municipality, all roads laid out pursuant to any Act or bylaw, and all roads dedicated to the public use shall be deemed, for the purpose of this Act, to be highways.

(2) Subject to this Act and the Highways Act and to any rights reserved by any person laying out or dedicating a highway, every municipality has jurisdiction over all highways within the limits of the municipality, and the management and control of all highways shall be vested in the municipality except highways excluded by an order made pursuant to subsection (3).

(3) Notwithstanding any other section of this Act, the Commissioner in Executive Council may by order provide that any section of this Act shall not apply to any highway described in the order.

**Powers of council**

**253.** Council may

- (a) lay out, construct, maintain and improve highways,
- (b) construct, repair, maintain, improve and care for sidewalks and boulevards, and plant or care for and remove grass, shrubs, trees and other plants thereon,
- (c) clean, oil and water highways, and provide for the lighting of highways and such other things as are necessary for the safe use and preservation of highways, and
- (d) authorize any officer or employee at his discretion to temporarily close a highway or part thereof to traffic or to control traffic, for any period during the construction, repairing or improvement of such highway or portion subject to the municipality providing a reasonable temporary alternative route for traffic.

**Bylaws****254.(1)** Council may by bylaw

- (a) establish, widen, alter, relocate, or divert a highway or any portion of a highway,
- (b) stop up and close to traffic a highway or any portion, or re-open any highway or portion that has been closed to traffic,
- (c) open and operate quarries, and sand and gravel pits acquired by the municipality,
- (d) assign the name or number of any highway, or alter the name or number of the highway, which shall have no effect until a certified copy is filed in the land titles office,
- (e) subject to the Highways Act, regulate or prohibit the erection or placing of any sign or advertisement,
- (f) classify any highway or portion and make different regulations for different zones,
- (g) designate a portion of a highway for use as a mall or pedestrian promenade, and control, restrict or wholly prohibit the use of vehicles,
- (h) open and maintain a temporary road or right-of-way for public purposes,
- (i) authorize an encroachment over, on or under a highway, subject to such terms and conditions and to such single or annual fee as council prescribes, and
- (j) make provision for the prevention or removal of any obstruction upon the highways.

(2) Where an encroachment has been authorized under paragraph (1)(i) and an annual fee has been set in respect of the encroachment, that annual fee shall be deemed to be part of the taxes levied on the real property that the encroachment appertains to.

**Temporary closures**

**255.** Notwithstanding sections 253 and 254, a council may, by resolution, close a highway for purposes of a celebration, parade or other special event for any period of time not exceeding three days.

**Duty to repair**

**256.(1)** Every highway and every portion thereof, except a highway mentioned in subsection (3), shall be kept in reasonable repair by the municipality within which it lies.

(2) Every municipality is responsible for the construction, maintenance and repair of any municipal work constructed on any highway within that municipality.

(3) A municipality is not liable to keep in repair

- (a) any highway laid out by a person other than the municipality unless that highway has been declared by bylaw as a common and public highway or otherwise assumed by the municipality as such by public use, or
- (b) any highway excluded by an order made pursuant to subsection 252(3).

**Consequences of failure to repair**

257.(1) Where a municipality fails to keep in reasonable repair a portion of a highway on which work has been performed or improvements made by it, that municipality is liable for all damages sustained by any person by reason of such default.

(2) A municipality is not liable for any damages caused by the overflow of water from any sewer, road drain, ditch or watercourse, if such overflow is occasioned by ice or snow obstructions therein or by reason of unusual rainfall and the municipality has taken all reasonable precautions against damage.

(3) Except in case of gross negligence, a municipality is not liable for any personal injury caused by ice or snow upon a sidewalk.

**Clearing of snow from sidewalks by adjoining owners**

258. Council may by bylaw require persons to remove and clear away all snow, ice, dirt and other obstructions from sidewalks adjoining premises owned or occupied by them, and in the event of non-compliance, within 48 hours cause the necessary work to be done and the expenses thereof charged against the owner or occupier of the premises.

**Local improvement tax**

259.(1) Notwithstanding section 242, council may by bylaw levy a local improvement tax to defray the annual cost of cleaning, clearing snow and ice, watering, oiling, tarring, lighting, supplying light in excess of that supplied to the municipality at large, cutting grass and weeds, and trimming trees and shrubbery on any portion of any highway, sidewalk or boulevard, and the local improvement tax shall be levied on the parcels of land which abut on the portion of the highway, sidewalk or boulevard, as the case may be.

(2) In a bylaw imposing the tax the council may provide that some portion of the cost of providing any of the services under subsection (1) shall be borne by the municipality.

(3) The provisions of the Assessment and Taxation Act apply, mutatis mutandis, to subsection (1) and for that purpose, a service shall be deemed to be a work which may be undertaken as a work of local improvement.

(4) The council shall not undertake to provide a service for which a local improvement tax is to be imposed under this section except in accordance with the provisions of section 243.

**DIVISION 8 - SEWER AND STORM DRAINS****Bylaws establishing or regulating works**

260.(1) The council may by bylaw provide for the establishment of a system of sewerage works for the collection, conveyance and disposal of sewage, or drainage works for the impounding, conveying and discharging of surface and other waters, or both, or a combination of both, and for this purpose may purchase or construct the necessary works, including the acquisition of all appliances, equipment, real property, easements and rights-of-way required therefor.

(2) No bylaw under subsection (1) shall be valid without the approval of the Executive Council Member unless, when it is made, the foreseen and foreseeable capital and operating costs of the works will be paid by the municipality from its own revenue or borrowing.

(3) A bylaw under subsection (1) may, with the approval of the Executive Council Member, provide for the extension and operation of the works beyond the boundaries of the municipality.

(4) The council may operate, maintain, improve, extend or alter any existing drainage or sewage systems and acquire all appliances, equipment, materials, real property, easements and rights-of-way required therefor.

(5) The council may by bylaw

- (a) regulate the design and installation of drainage and sewage works provided by persons other than the municipality, and
- (b) require owners of real property to connect their buildings and structures to the appropriate sewer or drain connections in the manner prescribed in the bylaw and in the event of any owner failing to make the necessary connections within a specified time, provide for having the work done.

**Taxes and charges**

**261.(1) Council may by bylaw**

- (a) impose a connection charge upon owners of real property to defray the cost of laying connecting pipes
  - (i) from sewers to land on which buildings or structures are situate, and
  - (ii) from drains to land required to be drained,and fix the terms and conditions of payment,
- (b) impose a frontage tax in accordance with the provisions of the Assessment and Taxation Act upon the owner of land or real property capable of being drained into a sewer or drain, whether or not the land is connected with or whether or not the real property is drained into the sewer or drain, for the opportunity to use the sewer or drain, and
- (c) impose a charge against the owner or occupier of real property for the use of a sewerage system, a drainage system or a combined sewerage and drainage system.

(2) Charges under paragraph (1)(c) may vary,

- (a) for sewage or combined sewerage and drainage facilities, in accordance with
  - (i) the number of outlets served,
  - (ii) the quantity of water delivered to the premises by a utility,
  - (iii) a classification of users or effluents, or
  - (iv) any combination of such methods, or
- (b) for drainage facilities alone, in accordance with the area of land served or benefited.



(3) In a bylaw adopted under subsection (1), provision may be made whereby the frontage tax or a charge under paragraph (1)(c) may be waived or lessened in respect of real property, any present or previous owner or present occupier of which

- (a) has constructed at his own expense any portion of the sewerage or drainage system of the municipality, or
- (b) has paid all debts and debt charges, including interest, in respect of that portion of the sewerage, drainage, or sewerage and drainage system of the municipality that serves the real property.

## **DIVISION 9 - WASTE COLLECTION AND DISPOSAL**

### **Bylaws**

**262.(1)** Subject to the Public Health Act, council may by bylaw

- (a) establish, construct, maintain and operate public incinerators,
- (b) establish, maintain and operate grounds for the disposal of garbage of all kinds,
- (c) establish, construct, maintain, and operate upon or under any street, or elsewhere, lavatories, urinals, water closets and the like conveniences,
- (d) establish and maintain a system for the collection, removal and disposal of garbage, ashes, refuse and other noxious, offensive, unwholesome and discarded matter,
- (e) compel persons to make use of any system established for the disposal of garbage, ashes, refuse and other noxious, offensive, unwholesome and discarded matter, and prescribe the terms and conditions upon which persons may make use of the system,
- (f) establish a scale of charges payable by owners or occupiers of real property for the removal to the public incinerator or such other designated place of tradewaste, garbage, rubbish and matter, for compelling payment of the charges so fixed, and for imposing penalties for neglecting to remove or have removed and brought to the public incinerator or such other place as aforesaid such tradewaste, garbage, rubbish and other matter,
- (g) enter into contracts with any person for all or part of the collection, removal and disposal of garbage and other waste, upon terms and conditions prescribed in the bylaw, and
- (h) compel and regulate the emptying, cleansing, and disinfecting of private drains, cesspools, septic tanks and privies, and the removal and disposal of refuse therefrom.

(2) A bylaw under subsection (1) may, with the approval of the Executive Council Member, provide for the extension and operation of the works beyond the boundaries of the municipality.

(3) Council may by bylaw provide for the use or sale of any product, including heat and other energy, obtained through the processing of any matter or operation of any works referred to in subsection (1).

**DIVISION 10 - WATER DISTRIBUTION**

**Establishment and regulation of water systems**

263.(1) The council of a municipality may by bylaw provide for the establishment and use within or without the municipality of a water distribution system for supplying water for any and all purposes to and for the inhabitants of the municipality, or to and for the inhabitants of adjacent localities.

(2) No bylaw under subsection (1) shall be valid without the approval of the Executive Council Member unless when it is made the foreseen and foreseeable capital and operating costs of the works will be paid by the municipality from its own revenue and borrowing.

(3) A bylaw under subsection (1) may, with the approval of the Executive Council Member, provide for the extension and operation of the works beyond the boundaries of the municipality.

(4) Where a water distribution system has been established under subsection (1), council may acquire, purchase or construct the necessary works including the acquisition of all appliances, equipment, real property, easements, rights-of-way and any real property required for protection of such works.

(5) Where a municipality operates a system pursuant to subsection (1) the council may by bylaw prohibit or regulate the design, installation and operation by any person of the same service in all or any part of the municipality.

(6) The council may operate, maintain, improve, expand or alter any existing water distribution system and acquire all appliances, equipment, materials, real property, easements and rights-of-way required therefor.

(7) The council may by bylaw require owners of real property to connect their buildings and structures to the water distribution system in the manner prescribed in the bylaw, and in the event of any owner failing to make the necessary connections within a specified time, provide for having the work done.

**Rates, terms and conditions**

264. The council operating and maintaining a water distribution system may by bylaw fix the rates, terms and conditions under which water may be supplied and used.

**Taxes and charges**

265.(1) The council may by bylaw

- (a) impose connection charges upon owners of land upon which are situated buildings or structures to defray the cost of laying connecting pipes from water mains to the land, and fix the terms and conditions of payment, and
- (b) impose a frontage tax in accordance with the provisions of the Assessment and Taxation Act upon the owners of land or real property which is capable of being connected with any water main, whether or not the parcel of land is connected with such water main.

(2) In a bylaw adopted under subsection (1), provision may be made whereby the frontage tax may be waived or lessened in respect of real property of which any present or previous owner has constructed at his own expense any portion of the water distribution system of the municipality.

### **DIVISION 11 - SUNDRY WORKS AND SERVICES**

#### **Parking, airports, trailer parks and business areas**

**266.**(1) Council may by bylaw acquire by purchase, lease or otherwise hold, use or improve real property for any of the following purposes:

- (a) off-street parking facilities or parkade structures;
- (b) airport landing area or seaplane base;
- (c) trailer park;
- (d) mobile home park;
- (e) any business improvement area established pursuant to section 352.

(2) The council may construct buildings and structures and equip them for any of the purposes designated in subsection (1).

(3) The council may provide for the operation, maintenance and management of any property acquired, held, or used under this section.

(4) The council may charge and collect a fee or rent for the use of any space in or portion of, or the use of, any of the property acquired under this section, and may enter into agreements with other persons for the leasing or subletting of any of the property.

(5) Where the facility is deemed by council to be of special benefit to the business or commercial areas of the municipality, the council may by bylaw designate all or a part of the commercial or business area as benefitting and apply the provisions of section 242.

### **DIVISION 12 - FIRE PROTECTION AND EMERGENCY SERVICES**

#### **Bylaws respecting fires**

**267.**(1) Subject to any other Act, council shall by bylaw establish a fire department.

(2) Subject to any other Act, the council may adopt bylaws

- (a) for the purchase of fire fighting equipment and providing proper buildings therefor,
- (b) to establish areas to be known as "fire districts" and regulate the construction of buildings in each of such districts in respect of precautions against the danger of fire, and discriminate and differentiate between the districts as to the character of the buildings permitted in each of them,
- (c) for the destruction, alteration or removal of any building, structure or portion thereof or any weeds, grass, rubbish or other thing within the municipality that in the opinion of the council constitutes, or is likely to constitute, a fire hazard or that should be removed for the protection of life and property, and providing for charging the costs and expenses of the destruction, alteration or removal against the property concerned,

- (d) subject to subsection (4), to enter into agreements with other municipalities or the Government of the Yukon or Canada for the use within the municipality of fire fighting equipment and personnel upon such terms and conditions and for such remuneration as may be agreed upon,
- (e) to regulate the manufacturing, processing, storing, selling, transporting or use of combustibles, chemicals, explosives and other dangerous products,
- (f) to regulate the construction, installation and operation of tanks, pumps and measuring devices used, or intended to be used, for the sale, storage or other disposition of gasoline, oil or other inflammable liquid,
- (g) to regulate the use of fires and lights in the open air or elsewhere,
- (h) to prohibit persons from standing, loitering or sitting in the aisles, passages and stairways of churches, theatres, halls, skating rinks and other public buildings,
- (i) to inspect premises for conditions which may cause a fire, incur the danger of fire or increase the danger to persons,
- (j) to take such measures as are described in the bylaw to prevent and suppress fires, including the demolition of buildings and structures to prevent the spread of fires,
- (k) for the inspection and supervision of electric wiring to ensure that the wiring and services comply with the standards prescribed by any Act and to specify the fees to be charged for such inspections, which fees shall be reasonable in the amount and shall not be imposed for the purpose of exacting revenue,
- (l) regulating the installation of stoves and stove pipes or other apparatus or things that may be dangerous in causing or promoting fires, and enforcing the proper cleaning of chimneys, flues and stove pipes, and
- (m) classifying fireworks and
  - (i) prohibiting or regulating and controlling the sale of fireworks or any specified class or classes thereof in the municipality,
  - (ii) prohibiting or regulating and controlling the setting off in the municipality or in any specified part or parts of the municipality of fireworks of any specified class or classes, and
  - (iii) prescribing conditions under which a display of fireworks or a specified class or classes thereof may be held in the municipality or in any specified part or parts of the municipality.

(3) A bylaw under subsection (1) or (2) may, with the approval of the Executive Council Member, provide for the extension and operation of fire protection and fire fighting services and equipment outside the municipality.

(4) Notwithstanding the generality of subsection (2), council may adopt bylaws regulating any other matter which the council considers necessary or proper for adequate fire protection or the protection of life or property.

#### **Ambulance services**

##### **268.(1) Council may adopt bylaws**

- (a) providing for the acquisition of ambulances and the operation of an ambulance service within and, subject to subsection (3), outside of the municipality,

- (b) for entering into an agreement with one or more owners of ambulances to furnish certain ambulance services in the municipality, and may annually by bylaw authorize payment to the owners of the ambulances of a grant.

(2) An ambulance service operated pursuant to a bylaw under subsection (1) is not subject to the Motor Transport Act.

(3) A bylaw under subsection (1) may, with the approval of the Executive Council Member, provide for the extension and operation of an ambulance service outside the municipality.

**Protection of life or property**

269. Notwithstanding any other provisions of this Act, the council may by bylaw regulate any other thing or matter which it considers necessary or proper for the protection of life or property.

**DIVISION 13 - RECREATION**

**Property**

270. The council may by bylaw

- (a) acquire, by purchase, lease or otherwise, accept and hold any real property within the municipality for pleasure, recreation or community uses of the public, including but not restricted to public library, art gallery, museum, arena and exhibition buildings,
- (b) make rules and regulations governing the management, maintenance, improvement, operation, control and use of any real property mentioned in this section,
- (c) lease or rent any real property mentioned in paragraph (a) and owned or held by the municipality, and
- (d) close to free use by the public the whole or any portion of any real property mentioned in this section at such times and for such periods as may be deemed advisable, and fix and charge fees for admission to or for the use of any of the facilities so closed.

**DIVISION 14 - PUBLIC HEALTH**

**Bylaws**

271. Subject to the Public Health Act and the regulations made thereunder, the council may adopt bylaws

- (a) in the interests of the public health of the municipality and the prevention of contagious and infectious diseases,
- (b) requiring the removal of dirt, filth, dust and rubbish from highways in the municipality by the person or persons depositing it, or by the owner or occupier of an adjacent property where it can be proved that the dirt, filth, dust and rubbish originated on the property adjacent, and in the case of default by the owner or occupier, for removing it at his expense and charging the expense thereof against his property as a special tax to be recovered in like manner as other taxes on real property,

- (c) requiring the removal by the owner thereof of anything deemed dangerous to the health and safety of the inhabitants of the municipality and for charging the expenses thereof against any property owned by him in the manner provided in paragraph (b),
- (d) regulating or prohibiting the construction within the municipality of privy vaults, water closets and septic tanks, and providing for the keeping of the same in a proper state of cleanliness and repair,
- (e) preventing or regulating the erection or continued operation within the municipality of slaughter houses, gas works, tanneries and other factories and trades that may prove to be nuisances generally,
- (f) preventing and abating public health nuisances generally, and
- (g) preventing the putting of anything prejudicial to health in any stream or body of water within the municipality or from which water is supplied to the municipality for any purpose.

**Agreements with the Government of the Yukon**

272. Council may by bylaw authorize an agreement between the municipality and the Government of the Yukon under which the Government of the Yukon provides public health services to the municipality and the municipality pays some or all of the cost of those services.

**Cemeteries**

273. Notwithstanding the Cemeteries and Burial Sites Act, the council may lay out, develop, improve, regulate, maintain and operate cemeteries, and acquire and hold for such purpose real and personal property within or without the municipality.

## **PART 6 REGULATORY**

### **DIVISION 1 - BUILDING REGULATIONS**

**Building standards bylaws**

274.(1) Council shall by bylaw, subject to any Act and regulations made thereunder, set standards regulating the construction, alteration, repair and demolition of buildings and structures, but the standards set by council shall be consistent with those of the building code established under the Building Standards Act.

(2) Notwithstanding subsection (1), where council believes that there are local conditions that would make the standards of the building code established under the Building Standards Act inappropriate in the municipality, council may by bylaw and with the approval of the Executive Council Member establish different standards.

(3) Any bylaw for the health, safety and protection of persons and property may

- (a) regulate the construction, alteration, repair or demolition of buildings and structures,
- (b) regulate the installation, alteration or repair of plumbing, including septic tanks and sewer connections, heating, air conditioning, electrical wiring and equipment, gas or oil piping and fittings, appliances and accessories of every nature and kind,

- (c) regulate the seating arrangements and seating capacity of places of public assembly,
- (d) require contractors, owners or other persons to obtain and hold a valid permit from the council, or from the proper authorized official, before commencing and at all times during the construction, erection, excavation, installation, addition, repair or alteration of gas or oil pipes and fittings, plumbing, heating, sewers, septic tanks, drains, electrical wiring, tents, signs, oil-burners, tanks, pumps, all like works, fittings and things, and buildings and structures of the kind, description or value described in the bylaw,
- (e) prescribe conditions generally respecting the issuance and validity of permits and the inspection of works, things, buildings and structures, and provide for the levying and collecting of permit fees and inspection charges,
- (f) regulate or prohibit the moving of any building into or from the municipality, or the moving of any building from one property to another in the municipality,
- (g) regulate the construction and layout of trailer courts, mobile home parks and camping grounds, and require that such courts, parks and grounds provide facilities specified in the bylaw,
- (h) provide that no trailer or mobile home may be occupied as a residence or office unless its construction and facilities meet the standards specified in the bylaw, and
- (i) require that, prior to any occupancy of a building or part thereof after construction, wrecking or alteration of that building or part thereof, or any change in class of occupancy of any building or part thereof, an occupancy permit be obtained from the council or the proper authorized official, which permit may be withheld until the building or part thereof complies with the health and safety requirements of the bylaws of the municipality or of any Act or regulation made thereunder.

### **Rectification bylaws**

**275.(1)** The council may by bylaw authorize or require

- (a) the demolition or removal, or the bringing up to a standard specified in the bylaw, of a building, structure or thing, in whole or in part, that is
  - (i) in contravention of any bylaw, or
  - (ii) in the opinion of council, in an unsafe condition, or
- (b) the filling-in, covering-over or alteration in whole or in part of an excavation that is
  - (i) in contravention of any bylaw, or
  - (ii) in the opinion of council, in an unsafe condition.

(2) Except as provided in subsection (7), a bylaw adopted under subsection (1) shall provide for not less than 30 days notice of the contemplated action to be given the owner, tenant or occupier of the real property affected.

(3) An appeal lies to a judge against the contemplated action under any bylaw made pursuant to subsection (1).

(4) Notice of an appeal under subsection (3) shall be given to the municipality within ten days from the date of the notice given under the bylaw to the owner, tenant or occupier of the affected premises.

(5) The judge shall hear and finally determine the matter, making such order as may seem appropriate in the circumstances.

(6) At the expiration of the period mentioned in subsection (2), the proper authorized official may proceed in accordance with the bylaw or the decision of the judge, as the case may be.

(7) Where council deems there is imminent danger of public injury,

- (a) the council of a city may waive the requirement for notice, and
- (b) the council of a town or village may, with the approval of the inspector, waive the requirement for notice.

## **DIVISION 2 - LICENSING AND REGULATION OF BUSINESSES**

### **Regulation of businesses**

**276.(1)** Subject to any other Act or regulations made thereunder, council may by bylaw control and regulate all businesses carried on within the municipality including the manner of operation, the nature of operation and the location thereof, and may license any or all such businesses

- (a) whether or not the business is mentioned elsewhere in this Act, and
- (b) whether or not the business has a business premises within the municipality.

(2) Council may in a bylaw under this section

- (a) provide for the classification of businesses for the purpose of the bylaw,
- (b) prescribe different licence fees for different classes of business, and
- (c) make any provision of the bylaw applicable to one or more classes of business.

(3) Council may by bylaw define resident and non-resident businesses and prescribe for any class of non-resident business a licence fee that is greater than but not more than double the licence fee that is prescribed for a resident business of the same class.

### **Licence requirements**

**277.** Council may by bylaw prohibit the carrying on of any business without a licence.

### **Exemptions**

**278.(1)** No licence is required with respect to any performance, exhibition, concert or entertainment, the entire proceeds of which over and above actual expenses are devoted to or are to be given to a church, school, hospital, charitable, patriotic, war fund or community purpose.

(2) No licence is required with respect to any performance, exhibition, concert, entertainment or concession which is held in a duly licensed theatre or other duly licensed place.



**Denial of licence, and revocation and suspension**

**279.**(1) The council may refuse to grant or may revoke or suspend a licence on grounds which, to it, appear just and reasonable, and may delegate to a municipal officer on such terms and conditions as the council by bylaw may determine the power to refuse to grant or revoke or suspend any licence if there are just and reasonable grounds for the refusal of the application or for revocation or suspension of the licence, subject to the right of the applicant to appeal the refusal or revocation or suspension to the council.

(2) A suspension of a licence under this section may be

- (a) for a period of time not exceeding the unexpired term of the licence, or
- (b) where the suspension is for non-compliance with a bylaw, until the holder of the suspended licence, in the opinion of the council, complies with that bylaw.

(3) A licence may be revoked or suspended for noncompliance with a bylaw notwithstanding that the holder of that licence has not been prosecuted for a contravention of that bylaw.

(4) The council shall hear any appeal pursuant to subsection (1) within ten days after the refusal of the application or revocation or suspension of the licence.

(5) Where a licence is suspended or revoked under subsection (1), the council or the municipal officer, as the case may be, shall declare at the time of the suspension or revocation whether or not the suspension or revocation is necessary in order to prevent injury to the public.

(6) Where no declaration is made under subsection (5) and an appeal to the council from the suspension or revocation has been commenced, the suspension or revocation does not take effect until the appeal has been heard and determined.

**“Business”**

**280.** For the purposes of sections 276, 277 and 278, and in any bylaw passed under sections 276, 277 and 279, “business” means the carrying on of a commercial or industrial undertaking of any kind or nature or the providing of professional, personal or other services for the purposes of gain or profit.

**Carriers**

**281.** Without restricting the generality of sections 278 and 279, the council may by bylaw, subject to the Motor Vehicles Act and the Motor Transport Act and regulations and orders made thereunder, provide for the regulation of carriers of persons or chattels, and such bylaw may

- (a) establish maximum and minimum charges by such carriers, or any classes thereof,
- (b) establish and alter routes to be taken by carriers of persons or chattels,
- (c) specify standards of safety,
- (d) classify carriers by type and prescribe different regulations for different classes,

- (e) limit the number of vehicles with respect to which persons may be licensed in any class of carriers,
- (f) attach conditions or restrictions to the granting of any permit issued under this section, and
- (g) suspend, cancel or revoke, after notice to show cause has been given, any permit issued under this section.

**Taxicabs**

282.(1) Subject to section 281, council may require every driver of a taxicab to obtain a permit from the municipality to drive a taxicab within the municipality.

(2) The council, after notice to show cause has been given to the holder of the permit, and upon hearing the same and being satisfied that the public interest so requires, may by resolution,

- (a) suspend any permit referred to in subsection (1) for a period not exceeding one month, or
- (b) revoke any permit referred to in subsection (1).

(3) The council may refuse to issue or renew a permit to drive a taxicab within the municipality to any person whose driving record, criminal record, character, age or state of health is such that, in the opinion of council, that person is unfit to drive a taxicab.

(4) For the purposes of determining the driving record, criminal record, character, age or state of health of any person applying for the issue or renewal of a permit to drive taxicabs within the municipality, the council or any person authorized by council in accordance with subsection (5) may

- (a) request, in writing, any such information from any person or organization, including any law enforcement agency, whether located within the Yukon or not, or
- (b) require that any such information be provided by the applicant

before a permit is issued.

(5) The council may by bylaw or resolution delegate to any person, including a peace officer, the authority to issue, renew or to refuse to issue or renew permits to drive taxicabs within the municipality.

(6) Where the council has delegated to any person authority with respect to the issuance or renewal of permits to drive taxicabs pursuant to subsection (4), an appeal from the decision of that person may be made to the council, and the decision of the council is final, with no appeal lying therefrom.

**Public transport**

283.(1) The council may, by bylaw, provide for the establishment, maintenance and operation of a system for the public transport of persons and property within the municipality.

(2) No bylaw under subsection (1) shall be valid without the approval of the Executive Council Member unless when it is made the foreseen and foreseeable capital and operating costs will be paid by the municipality from its own revenue and borrowing.

(3) A bylaw under subsection (1) may provide for the operation of the system for the public transport of persons and property outside the municipality, and such operation shall be subject to the Motor Transport Act.

(4) Any council operating and maintaining a public transport system may by bylaw fix the rates, terms and conditions under which transport facilities may be supplied and used.

(5) Where a public transport system is established pursuant to subsection (1), the council may by bylaw provide for the acquisition or purchase of any buildings, structures, vehicles, appliances, equipment or other things necessary in order to provide the service.

(6) Where a public transport system is established under subsection (1), the council may by bylaw establish a public transit commission, with duties and powers as provided in section 368.

### **Shopping days and hours**

**284.** Subject to any Act or regulations made thereunder, the council may by bylaw provide for all matters or things relating to the days and hours wherein shops or one or more classes of shops shall be permitted to remain open or shall be required to close, and for such purposes may

- (a) exempt shops or one or more classes of shops, designated as to size or type, from any of the provisions of such bylaw,
- (b) designate by type the merchandise that may be sold or exposed for sale during the hours that any shops or one or more classes of shops are permitted to remain open, and
- (c) impose conditions which must be met by any shops or one or more classes of shops that are permitted to remain open, including a condition that a specified minimum number of employees shall be on the shop premises at such times as are specified.

### **Closing of shops on holidays**

**285.** The council by bylaw may require that during the whole or part of a holiday as defined in the Interpretation Act or of a day proclaimed as a civic holiday, all shops and businesses or any specified class or classes thereof be closed and remain closed.

## **DIVISION 3 - TRAFFIC AND PARKING**

### **Bylaws**

**286.**(1) Subject to the Motor Vehicles Act, the Motor Transport Act and the Highways Act and the regulations made thereunder, the council may pass bylaws for

- (a) regulating the rate of speed of any vehicle within a municipality,
- (b) prohibiting or regulating and controlling the blowing of horns and the making of any unnecessary noises in the operation of any vehicle,
- (c) restricting the weight of vehicles or vehicles with their loads using the highways or any particular highway in the municipality,
- (d) classifying vehicles for any and all purposes involving the use of highways and other public places,

- (e) preventing or restricting, controlling and regulating
  - (i) the parking of vehicles or of any particular class of vehicle on any highway or other public place, or any portion thereof,
  - (ii) the parking on specified highways or within a certain distance from any building of vehicles used for carrying inflammable, combustible, explosive or other dangerous material, whether loaded or unloaded, and
  - (iii) any other use of the highways and other public places or any portion thereof by or for vehicles or any particular class of vehicle,
- (f) establishing, controlling and regulating parking stands or places for vehicles or any class thereof on any highway or other public place, or on any lands acquired by the municipality for parking purposes or designated as parking stands or places,
- (g) prescribing a tariff of fees or charges to be paid by persons using such parking stands or places, which fees or charges may vary according to the location of the parking stands or places, the class of vehicles for which the parking stands or places are intended or as the council may otherwise determine, but the council may in its discretion grant free use of all or any parking stands or places for all vehicles or any particular class thereof for such period of time or during such hours as may be specified in the bylaw,
- (h) establishing, controlling and regulating a parking meter system or providing in any other manner for the collection of fees or charges payable by persons using parking stands or places.
- (i) defining the route or routes through the municipality that vehicles or any particular class of vehicle must follow in entering or traversing the municipality,
- (j) prohibiting the parking of any vehicle in any private parking place or on any private property by any person other than the owner, occupant, licensee or permittee of the parking place or private property except with the consent of such owner, occupant, licensee or permittee,
- (k) authorizing the owner, occupant, licensee or permittee of any private property to remove or cause the removal of any vehicle that is unlawfully placed, left or kept on any privately owned property, to impound or store the vehicle, and to release it to the owner upon payment of the cost of removal and impounding or storage within a period of 30 days after the date of the removal of the vehicle or within such extended period as may be specified in the bylaw, and providing for the recovery of the cost if not paid within the specified period from the owner of the vehicle by action in court of competent jurisdiction or by sale of the vehicle at public auction or private sale,
- (l) authorizing a peace officer or any designated officer to remove or cause the removal of any vehicle that is unlawfully placed, left or kept on any highway, public parking place, other public place or municipally owned property and to impound or store the vehicle, requiring him upon impoundment to mail or deliver notice to the registered owner of the vehicle at his last known address informing the owner of the location of the impounded vehicle and the conditions for its release, and to release it to the owner upon payment of the cost of removal and impounding or storage within a period of 30 days after the date

of the removal of the vehicle or within such extended period as may be specified in the bylaw, and providing for the recovery of the costs if not paid within the specified period from the owner of the vehicle by action in court of competent jurisdiction or by sale of the vehicle at public auction or private sale,

- (m) making regulations with respect to
  - (i) obstruction of traffic,
  - (ii) one-way streets,
  - (iii) pedestrian or bicycle traffic,
  - (iv) safety zones,
  - (v) turning,
  - (vi) loading zones and bus stops,
  - (vii) traffic on highways in the vicinity of public schools,
  - (viii) traffic at intersections,
  - (ix) the right-of-way of one vehicle over another or of a pedestrian over a vehicle or vice versa, and
  - (x) the direction that a vehicle must follow on certain highways within the municipality.
- (2) Subject to this Act, the council may pass bylaws
  - (a) imposing penalties on persons travelling on sidewalks on horseback, bicycle or other vehicle, and
  - (b) controlling, regulating and providing a system of registration, including the authority to seize and impound, all-terrain vehicles, motorcycles, motorized toboggans and bicycles, whether on or off a highway.

#### **DIVISION 4 - CONTROL OF ANIMALS, INSECTS AND BIRDS**

##### **Animal diseases**

**287.** The council may pass bylaws for the purpose of preventing the spread of tuberculosis and other animal diseases that are communicable to human beings, and without restricting the generality of the foregoing may pass bylaws empowering designated persons to make such inspections as may be required for effectually carrying out the provisions of this section.

##### **Regulation and control**

**288.** For the purpose of regulating and controlling animals, birds and insects, the council may pass bylaws

- (a) preventing the leading, riding and driving of cattle, horses or other animals in any public place,
- (b) restraining and regulating the running at large of animals, providing for the impounding or destruction of animals running at large and, where an animal is impounded, making provision for the killing, sale or other disposition of impounded animals if not claimed from the pound within a specified time or if the claimant does not comply within a specified time with such conditions governing payment of costs and expenses and removal from the pound as the bylaw may provide,

- (c) classifying dogs for licensing purposes,
- (d) prescribing a tariff or licence fee to be paid by persons owning, possessing or harbouring dogs, which fee may vary as between the different classifications of dogs,
- (e) requiring that owners, possessors or harbourers of dogs, or any class of dogs, to keep them effectively muzzled while they are at large or upon a highway or public place, or shall keep them on a leash or under control of a competent person while upon a highway or public place, as the bylaw may direct,
- (f) regulating the keeping by any person of wild or domestic animals, or poultry or other birds, within the limits of the municipality,
- (g) prohibiting the keeping by any person of wild or domestic animals or poultry in any specified part or parts of the municipality where, in the opinion of council, that keeping is likely to cause a nuisance,
- (h) regulating the moving and keeping of bees, and defining areas within which such bees may be kept or within which the keeping of them is prohibited,
- (i) for the purpose of eliminating or mitigating within the municipality biting insects and insect pests,
- (j) regulating the sale of animals,
- (k) for the prevention of cruelty to animals,
- (l) regulating the location of kennels or other places for the training, care, breeding, treatment or boarding of animals,
- (m) providing for the seizure and detention or destruction of animals unlawfully permitted to be at large, and
- (n) regulating and fixing the fines and fees to be levied.

## **DIVISION 5 - SUNDRY REGULATIONS AND PROVISIONS**

### **Auction sales and athletic contests**

**289.** Notwithstanding any other Act or regulations thereunder, the council may by bylaw regulate

- (a) sales by auction in a public market, and
- (b) athletic contests of whatever nature in a municipality.

### **Curfews**

**290.(1)** Council may by bylaw

- (a) regulate the time after which children shall not be in a public place at night without proper guardianship, and
- (b) designate the age or apparent age of children to whom the bylaw applies.

(2) A child to whom the bylaw applies who is found in a public place after the time so fixed may be warned to go home by a peace officer, and if after the warning the child refuses or fails to go home he may be taken to his home or to a shelter by the peace officer.

(3) Any parent or guardian who permits his child or ward habitually to contravene a bylaw adopted under this section commits an offence and is liable on summary conviction to a fine not exceeding \$100.

**Noises, pollution and other noxious activities****291.** The council may by bylaw

- (a) require owners or occupiers of buildings to prevent pigeons or other birds from perching, roosting or nesting thereon, and regulate the feeding of pigeons or other birds by persons other than their owners,
- (b) prevent, abate and prohibit nuisances and provide for the recovery of the cost of abatement of nuisances from the person causing the nuisance or such other person or persons as may be described in the bylaw,
- (c) regulate or prohibit the making or causing of noises or sounds in or on a highway or elsewhere in the municipality which disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity, or which in the opinion of the council are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public, and make different regulations or prohibitions for different areas of the municipality,
- (d) prevent or prohibit persons from shouting, using megaphones and making other noise in, at or on streets, wharves, docks, piers, railway stations or other public places,
- (e) regulate or prohibit the sale or disposal to any person of firecrackers and other fireworks of every nature or kind,
- (f) prohibit persons from causing or permitting water, rubbish or noxious, offensive or unwholesome matter or substances to collect or accumulate around their premises, or from depositing or throwing bottles, broken glass or other rubbish in any open place,
- (g) prohibit the owners or occupiers of real property from allowing property to become untidy or unsightly, and require them to remove therefrom any accumulation of filth, discarded materials or rubbish of any kind, provide that in default of such removal the municipality, by its workers or others, may enter and effect such removal at the expense of the person so defaulting, and provide that the charges for so doing, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrears,
- (h) require the owners or occupiers of real property or their agents to eliminate or reduce the fouling or contaminating of the atmosphere through the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia, prescribe measures and precautions to be taken for such purpose, and fix limits not to be exceeded in respect of such emissions,
- (i) require manufacturers and processors to dispose of the waste from their plants in the manner directed by the bylaw,
- (j) require the owners or occupiers of real property or their agents to clear such property of brush, noxious weeds or other growths, provide that in default of such clearing the municipality, by its workers or others, may enter and effect such clearing at the expense of the person so defaulting, and provide that the charges for so doing, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrears,

- (k) prohibit the posting, exhibiting or distributing of placards, playbills, posters, advertising, writings or pictures or the writing of words or the making of pictures or drawings which are indecent or may tend to corrupt or demoralize on walls or fences, or elsewhere on or adjacent to a highway or public place, and
- (l) prohibit the carrying on of any noxious or offensive trade, business or manufacture.

**Guns, fireworks and explosives**

292.(1) The council may by bylaw applicable throughout the municipality or within any defined area or areas thereof regulate or prohibit, and the regulations may be different for different areas,

- (a) the discharging of firearms, including air guns, air rifles, air pistols and spring guns, or the exploding of firecrackers or other fireworks, and
- (b) the use of any explosive agent for blasting.

(2) Notwithstanding any regulation or prohibition enacted under paragraph (1)(a), the council may authorize the issuance of a permit to any person or organization for the purpose of the observance or celebration of any special event or festival by the use of firecrackers or other fireworks of any nature or kind, and may specify the terms and conditions thereof.

(3) A bylaw under paragraph (1)(b) may include provisions for regulating persons engaged in blasting and for requiring persons engaged in blasting to give security for damage to persons who, or whose property, may be injured thereby.

**DIVISION 6 - PUBLIC NUISANCES**

**Buildings**

293.(1) In this section

“building” includes any fence, scaffolding, structure or erection;

“owner” means the person in whose name the title to the property is registered and includes the person whose name appears as owner of the land or building in the assessment records of the municipality.

(2) The council may by bylaw declare any building to be a nuisance if the council is of the opinion that the building is dangerous to public safety or health.

(3) Subject to subsection (9), where a building has been declared under subsection (2) to be a nuisance, the council may by order require the owner, within the time specified in the order, which shall not be less than three months from the date of service of the order upon the owner,

- (a) to demolish or remove the building and to fill in the open basement or excavation remaining on the site of the building after the demolition or removal thereof, or to take such other measures with respect to the basement or excavation as may be described in the order, or
- (b) to improve the condition of the building in the manner and to the extent described in the order.



(4) An order made under subsection (3) may be personally served upon the owner or sent to him by registered mail at his last known address as shown by the assessment roll or by the records of the land titles office, and the council may direct that notice of the order be affixed to any part of the building and may authorize an agent of the municipality to cause such notice to be affixed to the building; and where the owner is deceased or his address is unknown, a copy of the order shall be published in at least two issues of a newspaper circulating in the municipality.

(5) If an owner does not comply with an order made under subsection (3) within the time specified therein, the council may proceed to have such work done as it considers necessary for the purpose of carrying out the order, and the cost of the work shall be added to and form part of the taxes on the land on which the building is or was situated.

(6) Where the council proceeds under subsection (5) and the building is occupied, the council may, if it is of the opinion that the work cannot be conveniently carried out while the building is occupied, by written notice require the person occupying the building to vacate the building forthwith.

(7) Where a person to whom the notice has been given under subsection (6) fails to vacate the building forthwith after receiving the notice, the council may apply *ex parte* to a judge in chambers for an order requiring the person to deliver up possession of the land on which the building is situated and of the building to a nominee of the council, and upon such an application the judge may make such order including an order as to costs as he deems just.

(8) Where the council proceeds under subsection (5) and removes or demolishes the building, it may sell or otherwise dispose of the building or the materials therefrom, as the case may be, at such price as it considers reasonable, and shall pay the proceeds of the sale or other disposition after deducting the amount of the cost of the work, any costs awarded to the council under subsection (7), and any taxes owing in respect of the property, to the owner, mortgagee or other person entitled thereto.

(9) Before making an order under subsection (3), the council shall cause not less than one month's prior written notice to be given to the owner specifying the date, time and place of a meeting of the council at which the making of such an order will be considered and stating that the owner will be given an opportunity to be heard at the meeting before an order is made, and in such case a building permit or demolition permit may be withheld pending the issuance of an order under subsection (3).

(10) A notice under subsection (9) may be personally served upon the owner or sent to him by registered mail at his last known address as shown by the assessment roll or by the records of the land titles office, and where the owner is deceased or his address is unknown, a copy of the notice shall be published in at least two issues of a newspaper circulating in the municipality.

(11) The owner of the building affected by an order made under subsection (3), or any other person having a registered interest in the building who considers himself aggrieved by the order, may within 30 days after service of the order upon the owner, apply by notice of motion to a judge in chambers for a review of the matter, and the judge, if satisfied

- (a) that the council acted in a manner contrary to the intent and meaning of this section, or

(b) that the procedure prescribed in this section has not been followed, may set aside, vary or modify the order on such terms as to costs and otherwise as he deems just.

(12) No action lies against the municipality, the council or any of the officials, agents or servants of the municipality in respect of any matter or thing done under this section.

**Junked vehicles**

**294.**(1) Where an owner or occupant of property keeps or permits to be kept thereon a junked vehicle, the council may serve a notice on such owner or occupant, as the case may be, setting out the time and place of a council meeting at which the owner or occupant as the case may be may appear to show the cause why the junked vehicle should not be removed from the property and destroyed.

(2) Service of a notice under subsection (1) shall be by personal service and shall be made not less than three days before the date of the council meeting referred to therein.

(3) Notwithstanding subsection (2), where a junked vehicle is located on vacant property and the address of the owner is unknown to council, the notice mentioned in subsection (2) shall be published in at least two issues of a newspaper circulating in the municipality, the last publication of which shall be not less than three days before the council meeting mentioned in the notice.

(4) Where the owner or occupant as the case may be

- (a) does not appear before council pursuant to the notice under subsection (3) or (4) as the case may be, or
- (b) appears before council and fails to satisfy the council that the junked vehicle should not be removed from the property and destroyed,

the council or its authorized agent or employee may remove the junked vehicle from the property and destroy it at the expense of the municipality.

(5) The council may postpone the removal and destruction of the junked vehicle on conditions which it considers necessary.

(6) For the purposes of this section, "junked vehicle" means a vehicle that

- (a) is either in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition, and
- (b) is not located in a building and does not form part of the business enterprise lawfully being operated on that property.

(7) The council shall be the judge as to whether any vehicle is a junked vehicle within the meaning of this section.

(8) No action lies against the municipality or its agent or employee for any reasonable or necessary acts committed in connection with any removal or destruction or both, of a junked vehicle in accordance with this section.

**Abandoned vehicles**

295.(1) Where any vehicle has been left or placed upon any highway, public place or municipal property and has been allowed to remain there for ten days or more and the owner thereof cannot after reasonable inquiry be ascertained, the vehicle shall be deemed to be abandoned.

(2) The council may by resolution order that a vehicle which is deemed to be abandoned within the meaning of subsection (1) be removed by the municipality from the place where it is abandoned and sold, destroyed or otherwise disposed of as the council may decide.

(3) Where a council pursuant to subsection (2) decides to sell, destroy or otherwise dispose of an abandoned vehicle it shall, at least 15 days before doing so, publish a notice of its decision in a newspaper circulating in the municipality together with a description of the abandoned vehicle.

(4) When an abandoned vehicle is sold pursuant to the council's order under this section, the proceeds of the sale shall be applied against the cost of removal of the vehicle, any balance remaining shall form part of the general funds of the municipality, and in such case the purchaser of the vehicle shall, notwithstanding the provisions of any other Act, obtain good title thereto free and clear of all encumbrances.

(5) Notwithstanding the provisions of any other Act, no action lies or shall be brought against a council which sells, destroys or otherwise disposes of a vehicle in compliance with the provisions of this section.

**PART 7  
PLANNING, LAND USE AND DEVELOPMENT**

**DIVISION 1 - OFFICIAL COMMUNITY PLAN**

**Time for adoption**

296.(1) The council of a municipality shall, within two years of incorporation, adopt by bylaw an official community plan in accordance with the provisions of this Part.

(2) The Executive Council Member may from time to time extend the time for the adoption of an official community plan.

(3) The Executive Council Member may, after consultation with the council of a municipality, direct the council to prepare or amend an official community plan for all or part of the municipality.

(4) A community plan already adopted by bylaw when this Act comes into force shall continue in force until amended or replaced under this Act.

(5) A bylaw respecting the adoption or amendment of a community plan is not valid unless, before it is given third reading, it is approved by the Executive Council Member.

**Purposes**

**297.** The purposes of an official community plan are

- (a) to serve as a framework whereby the municipality and the community as a whole may be guided in formulating development policies and decisions,
- (b) to identify the factors relevant to the use and development of land,
- (c) to identify policies concerning the future physical, social and economic development of the municipality,
- (d) to set forth the desired timing, patterns and characteristics of the future development of land and to determine the probable social, environmental and economic consequences thereof,
- (e) to identify the programs and actions necessary for the implementation of the official community plan,
- (f) to outline the methods whereby the best use and development of land and other resources in adjacent areas may be coordinated, and
- (g) to identify those matters of government concern which affect the use and development of land and other resources within the municipality.

**Contents**

**298.(1)** An official community plan may consist of any descriptive documents such as maps, drawings, photographs, plans, reports or statements, and it shall be published in a documentary form that may easily be made available to taxpayers and electors in the municipality.

(2) The content of an official community plan shall be presented or written in a way that is understandable by lay persons who do not have special training or expertise in the fields of learning represented in the plan.

**Notice of intention**

**299.(1)** The council shall give notice of its intention to adopt an official community plan by advertisement inserted at least once a week for two successive weeks in a newspaper circulating in the area affected, or by any other method approved by the council; the first of the notices shall be published at least four clear weeks before a date fixed by the council for the consideration of submissions respecting the plan; and the notice shall state a place where and the hours during which the plan may be inspected by any interested person and the time and place fixed for the consideration by the council of written submissions respecting the plan.

(2) Before its first publication under subsection (1), a copy of the notice described in subsection (1) shall be given to the Executive Council Member, the Yukon Municipal Board, and such other persons as the Yukon Municipal Board may direct.

**Public inspection and hearing**

**300.** The council shall make suitable provisions for the inspection of the official community plan by interested persons, and shall hear and determine all verbal and written submissions thereto before adopting the plan.

**Approvals required**

**301.(1)** Council shall submit to the Yukon Municipal Board any official community plan or any amendment thereto that it proposes to adopt.

(2) No bylaw in respect of an official community plan under this Division shall be valid, unless prior to third reading of the bylaw,

- (a) the Yukon Municipal Board has approved the community plan as submitted to it or with modifications that the council concurs in, or
- (b) where the Yukon Municipal Board does not approve the community plan, the Executive Council Member has approved the community plan as submitted to him or with modifications.

(3) Neither the Yukon Municipal Board nor the Executive Council Member shall approve a community plan where

- (a) the plan does not conform to the requirements of this Act, or
- (b) the council, in preparing, considering or submitting the plan, has not complied with this Act.

### **Review by the Yukon Municipal Board**

**302.**(1) The Yukon Municipal Board shall

- (a) approve the community plan as submitted to it, or
- (b) refer the community plan back to council with recommendations for modifications or for remedial action.

(2) Before making its decision and acting under subsection (1), the Yukon Municipal Board may hold a public hearing about the community plan submitted to it by a council under this Division, in which case the provisions of section 299 shall be followed with the necessary changes.

(3) When reviewing a community plan under this Division, the Yukon Municipal Board and the Executive Council Member shall consider

- (a) such matters as they think the council has or should have considered,
- (b) whether the plan conforms to the requirements of this Act, and
- (c) whether the council, in preparing, considering and submitting the plan, has complied with this Act.

### **Effect of plans**

**303.**(1) Council shall not enact any provision or carry out any development contrary to or at variance with an official community plan.

(2) No person shall carry out any development that is contrary to or at variance with an official community plan.

(3) The Governments of Canada and the Yukon, and any agency thereof, shall not carry out any development contrary to or at variance with an official community plan.

(4) Notwithstanding subsection (2), council is not empowered to impair the rights and privileges to which an owner of land is otherwise lawfully entitled.

(5) The adoption of an official community plan shall not commit the council or any other person, association or organization, or any department or agency of the Governments of Canada or the Yukon to undertake any of the projects outlined in the official community plan.

(6) The adoption of an official community plan does not authorize council to proceed with the undertaking of any project except in accordance with the procedure and restrictions laid down therefor by this or any other Act.

**Conflict with other bylaws and regulations**

**304.** Where any existing zoning bylaw or regulation under the Area Development Act is at variance with the provisions of an official community plan, the provisions of the plan shall supersede the provisions of the bylaw or regulation.

**Amendments**

**305.** An official community plan may be amended, but any such amendment shall be made in accordance with the procedure and subject to the same approvals as established in this Division for the preparation and adoption of such a plan.

**Review**

**306.(1)** The council shall review the official community plan

- (a) not more than five years after adoption of the plan, and
- (b) when requested to do so by the Executive Council Member.

(2) The council may review the official community plan whenever it considers it necessary to do so.

**Alteration of municipal boundaries**

**307.(1)** When the boundaries of a municipality are altered, the council shall forthwith review the official community plan and shall, within one year of the boundary alteration or such additional time as the Executive Council Member may allow, propose and submit an amended community plan to the Yukon Municipal Board for approval.

(2) Where a plan is reviewed and amended following a boundary alteration, the amendment shall apply, but is not limited to, the area subject to the boundary alteration.

**DIVISION 2 - ZONING BYLAWS**

**Existing bylaws and regulations**

**308.(1)** A zoning bylaw approved under any former Municipal Act and subsisting on the day on which this Act comes into force is continued in force until repealed as provided in this Act.

(2) A regulation under the Area Development Act shall remain in force in relation to an area that becomes part of a municipality under this Act until it is repealed or amended by a bylaw passed by the council of the municipality.

**Time for adoption of zoning bylaws**

**309.(1)** Where an official community plan is adopted the council shall within one year adopt a zoning bylaw applicable to the land affected by the official community plan.

(2) The Executive Council Member may from time to time extend the time allowed for adoption of a zoning bylaw.

(3) The Executive Council Member may, after consultation with the council of a municipality, direct the municipality to prepare or amend a zoning bylaw for all or part of the municipality.

### **Purposes and relation to plans**

**310.**(1) The purposes of a zoning bylaw are

- (a) to implement development control provisions,
- (b) to provide for the amenity of the area within the council's jurisdiction, and
- (c) to provide for the health, safety and general welfare of the inhabitants of the municipality.

(2) The council of a municipality shall not pass a zoning bylaw or any amendment thereto that does not conform to the provisions of an official community plan.

### **Contents**

**311.**(1) A zoning bylaw shall provide for the establishment of a board of variance and shall provide for an appeal to it and an appeal from it to the Yukon Municipal Board in accordance with the provisions of this Part.

(2) A zoning bylaw shall not contain any provision that would permit only public development or that would not permit any use of the land, buildings or structures.

(3) Subsection (2) does not apply to any bylaw in respect of land, buildings or structures that are

- (a) owned by the Government of the Yukon or Canada, if the Government of the Yukon or Canada, as the case may be, consent to the bylaw, or
- (b) owned by the municipality.

### **Development permits and zoning**

**312.**(1) A zoning bylaw may provide for a system of development and use permits, prescribe the terms and conditions under which a permit may be issued, suspended or revoked, and prescribe forms for permits and applications therefor.

(2) A zoning bylaw may prescribe the development permitted in a district for which no development permit shall be required.

(3) For greater certainty but without limiting the purpose of a zoning bylaw stated by section 310, every zoning bylaw may prescribe or establish zones or districts of such number, shape and area as may be considered by the council best suited for any or all of the following purposes or any other unspecified purpose and, within those districts or any of them, may

- (a) permit, regulate or prohibit the use of land for business, industry, residence or any other purpose,
- (b) permit, regulate or prohibit the use for business, industry, residence or any other purpose of buildings and other structures erected, placed, constructed, reconstructed, altered or repaired after the passing of the bylaw,

- (c) permit, regulate or prohibit the location of any or all classes of business, industry, trade, calling or profession, the location of apartments, town-houses, terraces, club houses, group homes, residences or dwellings, and the location of public and semi-public buildings or property designed for specified uses,
- (d) prescribe the class of use of land or buildings or land and buildings that shall be excluded or subjected to special regulations or standards, designate the use for which buildings may not be erected, placed, constructed, reconstructed, altered or repaired or for which land may not be used, and designate the class of use that only shall be permitted,
- (e) prescribe the minimum and maximum size of lots or parcels into which land may be subdivided and the minimum area of land required for any particular class of use or size of building,
- (f) prescribe the minimum and maximum density of population or intensity of development,
- (g) prohibit the erection of any building or other structure on land that is subject to flooding, slumping, earth movement, the presence of ice or other instability, or on land where, owing to bad natural drainage, steep slopes, rock formations, the presence of ice or other similar features, the cost of providing satisfactory waterworks, sewerage, drainage or other public utilities would, in the opinion of the council, be prohibitive,
- (h) regulate the location, height, number of storeys, area and volume of buildings and other structures erected, placed, constructed, reconstructed, altered or repaired after the passing of the bylaw,
- (i) regulate the percentage of a lot or parcel of subdivided land that may be built upon and the size of yards, courts and other open spaces,
- (j) require the owners or occupants of buildings or other structures to be erected or used for any purpose specified in the bylaw to provide and maintain any necessary loading or parking facilities on land that is not part of a public highway,
- (k) regulate or prohibit the public display of signs and advertisements and regulate the nature, kind, size, location, colour, illumination and inscription of any sign or advertisement displayed,
- (l) regulate or prohibit the location of campers, trailers and mobile homes, campgrounds, trailer parks and mobile home parks and mobile home subdivisions, and regulate the internal layout and standard of services to be provided in campgrounds, trailer parks and mobile home parks,
- (m) regulate the external architectural appearance and facing materials of buildings or structures in such districts or parts of the municipality as the council considers appropriate,
- (n) regulate the architectural appearance and building materials or facing materials in those areas in a municipality considered to be of special significance to the heritage of the municipality, of the Yukon or of Canada,
- (o) regulate the location of buildings or structures to ensure the optimum exposure of buildings to the sun and to ensure that no building inhibits the exposure of another building, whether on the same lot or adjacent land, to the sun,
- (p) regulate the removal from the ground of soil, gravel, sand, silt, aggregate or other surficial materials, and



- (q) regulate the cutting of trees.

(4) A zoning bylaw may also prescribe in respect of a zone or district the use of land or buildings or other structures that may be permitted in the district for such limited time only as may be fixed by the bylaw, including such special conditions of use as may be determined by the council in each particular instance, but no such use shall be contrary to an official community plan.

### **Zoning map**

**313.**(1) The districts or zones established in the zoning bylaw shall be shown on a map attached to and forming part of the bylaw, and where necessary zones or districts may be described.

(2) The map shall bear a statement that it accompanies the zoning bylaw, shall be under the seal of the municipality and shall be signed by the mayor and the clerk.

(3) The map shall be drawn so that individual lots and parcels may be identified.

(4) The zoning bylaw shall contain a statement indicating whether the text or map take precedence in determining the boundaries of zones or districts.

### **Exemption from parking requirements**

**314.** Where a zoning bylaw requires any parking facilities on land that is not part of a public highway, as set out in paragraph 312(3)(j), the council may by the same or another bylaw exempt a person from the requirement of providing the parking facilities where, in lieu thereof, the person pays to or agrees to pay to the council a sum calculated by multiplying the number of such parking spaces that the person would otherwise be required to provide by the amount fixed for each parking space, and the payment of or agreement to pay such sum shall be subject to such terms and conditions as the council may determine.

### **Development and use permits**

**315.**(1) Where a zoning bylaw is in effect, no development shall be undertaken or use commenced unless a development permit, or use permit as the case may be, where such a permit is required, has been obtained.

(2) A development permit or use permit shall not be valid unless it conforms with the zoning bylaw and the provisions of this Act.

(3) A building permit shall not be valid unless a subsisting development permit, where such a permit is required, has been issued.

### **Notice of intended zoning bylaw or amendment**

**316.**(1) The council shall give notice of its intention to pass a zoning bylaw or amendment thereto by advertisement inserted at least once a week for two successive weeks in a newspaper circulating in the area affected, or by any other method approved by the council.

(2) The notice shall

- (a) describe the area affected by the bylaw or amendment by
  - (i) reference to street names, addresses and commonly understood area designations,
  - (ii) publication of a map of the area, or
  - (iii) in case of an amendment of general application which does not designate land for specific uses, by a description of the type of property affected according to zoning districts but not by the specific location of all such property,
- (b) state a place where and the hours during which the zoning bylaw may be inspected by any interested person, and the time and place set for consideration by the council of written submissions respecting the bylaw, and
- (c) in the case of an amendment, include a statement of the reasons for and an explanation of the amendment.

(3) Notwithstanding subsection (1), where a change in the zoning classification is proposed, the council shall serve a copy of the notice on each assessed owner of property within a radius of 100 metres from the property affected by the change in zoning classification, and the notice shall be delivered by personal service or by regular first class mail to the address of the owner shown on the latest authenticated assessment roll.

**Copies of the bylaw and notice**

317. The council shall make copies of the proposed bylaw or amendment available at cost to any interested person, together with a copy of the notice setting out the time and place set for the hearing.

**Public inspection and hearing**

318.(1) The council shall make suitable provision for inspection of the zoning bylaw or amendment by interested persons and, before passing the bylaw or amendment, shall hear and consider all verbal and written submissions thereto.

(2) The meeting to consider submissions regarding the proposed bylaw or amendment shall be held not earlier than seven days after the last date of publication of the notice referred to in section 316.

**Approval requirement**

319.(1) No zoning bylaw shall be valid unless, prior to the third reading of the bylaw, the council has obtained the written approval of the bylaw by the Executive Council Member.

(2) The municipality shall submit to the Executive Council Member two copies of the zoning bylaw certified correct by the clerk of the municipality.

(3) The Executive Council Member shall

- (a) approve the zoning bylaw,
- (b) reject the zoning bylaw, or
- (c) approve the zoning bylaw subject to such reservations and qualifications as may appear to him to be necessary or desirable.

(4) Where the Executive Council Member rejects a zoning bylaw or approves it subject to reservations and qualifications, he may direct the council to:

- (a) prepare a new zoning bylaw, or
- (b) amend the zoning bylaw and direct the council to give notice of the changes made therein.

(5) Where the Executive Council Member directs the municipality to amend a zoning bylaw and to give notice of the changes made therein, sections 316, 317 and 318 apply *mutatis mutandis*.

### **Effect of zoning bylaws**

**320.(1)** Council shall not enact any provision or carry out any development contrary to or at variance with a zoning bylaw.

(2) No person shall carry out any development that is contrary to or at variance with a zoning bylaw.

(3) The Governments of Canada and the Yukon and any agency thereof shall not carry out any development contrary to or at variance with a zoning bylaw.

(4) Notwithstanding subsection (2), council is not empowered to impair the rights and privileges to which an owner of land is otherwise lawfully entitled.

### **Review**

**321.** Every zoning bylaw shall be reviewed and consolidated by the council

- (a) when the council considers it necessary, or
- (b) when the official community plan is adopted or amended.

### **Application for amendment**

**322.(1)** A zoning bylaw may provide that when an application is made to a council for an amendment to the bylaw it shall be accompanied by an application fee not exceeding \$500.

(2) The zoning bylaw may provide that, if the amendment proposed by the applicant is adopted by the council, the fee may be refunded in whole or in part to the applicant.

## **DIVISION 3 - INTERIM DEVELOPMENT CONTROL**

### **Implementation of controls**

**323.(1)** After

- (a) the date of a resolution passed by council that authorizes the preparation or amendment of an official community plan or a zoning bylaw,
- (b) a direction of the Executive Council Member under subsection 296(3), or
- (c) the date of adoption of an official community plan under section 309,

the council may by resolution provide that no person shall carry out any development within the area that will be affected by the proposed official community plan or zoning bylaw as the case may be except with the written permission of the council of the municipality.

(2) A municipality shall give notice of its intention to pass a resolution under subsection (1) by publishing an advertisement inserted at least once a week for two successive weeks in a newspaper circulating in the area in which the proposed development is planned, or by any other method approved by the council, and the first of the notices shall be published at least four clear weeks before a date fixed by the council for passing the resolution.

(3) A person who desires to carry out any development in an area that will be affected by the proposed official community plan or zoning bylaw shall apply to the council of the municipality for permission to carry out the development, and upon receipt of such an application the council of the municipality shall, within 60 days,

- (a) grant the permission applied for,
- (b) grant the permission applied for subject to specified conditions,
- (c) defer making a decision in respect of the application for a period not exceeding six months from the date of application, or
- (d) refuse the permission applied for.

(4) Notwithstanding subsection (3), no development that is contrary to

- (a) an existing official community plan, or
- (b) an existing zoning bylaw,

shall be permitted in an area that will be affected by a proposed official community plan or a proposed zoning bylaw until the plan or bylaw has been approved by the Executive Council Member, and thereafter development shall only be permitted in accordance with the bylaw.

(5) A person aggrieved by the decision of the council of the municipality under subsection (3) may appeal to the Yukon Municipal Board.

**Withholding of building permits**

324. From and after the first publication by a municipality of an advertisement under subsection 323(2), the council of the municipality may withhold the issuance of a building permit for any building or other structure in the area affected by the proposed resolution for a period not exceeding three months from the date of the application for the permit.

**Refusal of permits and imposition of conditions**

325. Subject to section 324, a municipality shall not refuse a permit or impose conditions upon a permit for any development unless the refusal or the imposition of the conditions is authorized by an official community plan or a zoning bylaw and is justified by the facts of the case.

**DIVISION 4 - SUBDIVISIONS**

**Interpretation**

326. In this Division,

“application” means an application for approval of a proposed subdivision of land;

“subdivision” means the division of a lot or parcel by an instrument, or the creation of a new parcel from previously unsubdivided land.

**Compliance with the Act**

327. No subdivision of land shall be valid unless it is made in accordance with this Act.

**Approving authority**

**328.** The Commissioner in Executive Council may declare that, from a date to be named in the order,

- (a) the inspector shall be an approving authority within that area of a municipality not under the jurisdiction of any other approving authority, or
- (b) a council shall be an approving authority within the area under its jurisdiction,

but a council shall only be made an approving authority if it has adopted a subdivision control bylaw approved by the Executive Council Member.

**Highway access**

**329.(1)** Every person who applies for subdivision of land shall provide for adequate highway access to each lot created by the subdivision.

(2) The highway access that is required under this section shall be made to conform to any standards that may be set under this Act or under any subdivision or zoning bylaw of the municipality.

(3) The cost of providing the highway access under this section shall be borne by the applicant.

(4) Subsections (1), (2) and (3) do not apply to

- (a) land intended for use as a railway right-of-way, or a right-of-way for a ditch, irrigation canal, pipeline, telecommunication or power transmission line, or a municipal utility described in section 333, or
- (b) land conveyed or to be conveyed to the owner of adjoining land to which access has been provided by a public highway, if in the opinion of the approving authority the land conveyed or to be conveyed and the adjoining land are to be used for a common purpose and if the certificates of title to the lands may be consolidated into one certificate for one consolidated parcel of land.

(5) The requirement for access under subsections (1), (2) and (3) may be waived by the approving authority where strict compliance is impractical or unnecessary, but the design shall not be such as to preclude the provision of access at some future time.

**Bylaws**

**330.** A council may make bylaws for controlling the subdivision of land within the municipality.

**Dedications for public use**

**331.(1)** Every plan of proposed subdivision shall make provision for the dedication to the public use, in addition to streets and lanes, of up to ten percent of the land to be subdivided, except that the requirements of this section do not apply to

- (a) land to be subdivided into units of four hectares or over in area,
- (b) land intended for a railway station ground or right-of-way, a right-of-way for a ditch, irrigation canal, pipeline, telephone line or power transmission line, a reservoir or a sewage lagoon, or

- (c) land to be resubdivided for the purpose of correcting or rearranging boundaries of land previously included in an area subject to the requirements of this section,

and where reversionary rights have been exercised on any subdivision, no further dedication for public use shall be required.

(2) Notwithstanding subsection (1), where land adjacent to surface water or any other body of water is to be subdivided for other than public recreational uses, the following dedication of land to the public use may be required:

- (a) a parcel of land, of such width as may be determined by the approving authority, lying between the bank of the land containing the water and the land to be retained by the owner, for the preservation of the bank and the protection of the land retained by the owner against flooding and to provide public access to the water;
- (b) other land as may be required to provide access to the shoreline of the land containing the water to serve the proposed subdivision, not exceeding ten percent of the area of the land to be subdivided.

(3) Where the approving authority so determines, no subdivision shall be carried out on any sloping land or on any land that the approving authority considers may be unstable unless it has been certified, after a consideration of geotechnical survey data and analysis in respect of the land carried out in accordance with good professional practice at the expense of the person proposing the subdivision, that the land is suitable for development; and where subdivision of the land is not permitted the land may be dedicated to the public use and may be accepted as part of the land required to be dedicated to the public use if the dedication is approved under subsection (5).

(4) Notwithstanding subsection (1), where the land to be subdivided contains ravines, swamps, natural drainage courses or other areas that in the opinion of the approving authority are unsuitable for building sites or other private uses, the approving authority may require that those areas be dedicated to the public use as parks, natural areas or areas for public recreational use in addition, or in part contribution, to the amount of land that is required to be dedicated to the public use pursuant to this section.

(5) The location and suitability of land dedicated to the public use shall be subject to the approval of the approving authority.

(6) Each parcel of land dedicated to public use shall vest in the Crown as Yukon lands.

(7) Where land that was subject to the requirement for the dedication of a certain amount of the land to the public use or that was subdivided prior to the requirement for such dedication is designated under a zoning bylaw for residential use by more than ten dwellings per hectare of the land that is subject to the plan of subdivision, or where an owner requests rezoning of any other land not previously subject to dedication to the public use, provision may be made for the dedication of additional land to the public use, but the total dedication shall not be more than the percentage required in subsection (1), and in such case the approving authority may require the registered owner of the land either

- (a) to submit, within three months from the date of mailing of the notice, a plan of survey dedicating the required land to the public use, or
- (b) to pay to the council, within three months from the date of mailing of the notice, an amount equal to the fair value of the required land,

and the council may

- (c) withhold or authorize its proper officer to withhold a development permit or a building permit for any building or other structure on the land subject to the requirement for dedication to the public use or payment in lieu thereof, or
- (d) refuse the request for rezoning of the land.

(8) Notwithstanding subsection (1), where it appears to the approving authority that the dedication of land to the public use by a person proposing a subdivision of land would serve no practical purpose or for any other reason would be unnecessary or undesirable, the approving authority may direct that the requirements of dedicating land to the public use in respect of the proposed subdivision

- (a) be deferred in whole or in part until a further subdivision is made, or
- (b) be waived in total, and may provide that in lieu thereof the applicant be required to pay to the municipality a sum of money in an amount no greater than the value of the land that would otherwise have been dedicated to the public use, and may direct the time and method of payment.

(9) For the purpose of subsection (8), the value of the land shall be determined on the basis of its fair value immediately after the subdivision of the land, and such fair value shall be established pursuant to the Assessment and Taxation Act.

(10) Where the dedication of land to the public use is deferred under paragraph (8)(a), the approving authority shall file a caveat against the title of the land concerned to protect the interest of the future requirement of dedicating to the public use the required amount of land.

### **Buffer strips**

**332.(1)** Where a subdivision design requires the provision of land as a buffer between adjacent lands and the land to be so provided consists of strips for the development or preservation of earth berms or plantings, the plan of subdivision shall, in addition to the requirement of the dedication of lands for the public use, provide for strips of land of adequate width to accomplish the intended purpose, and the buffer strips shall vest in the Crown as Yukon lands.

(2) The amount of land required to be provided as buffer strips in a subdivision of land other than for residential purposes may be included in calculating the amount of land required to be dedicated to the public use in a subdivision of land where the approving authority considers that the public interest is best served by such an arrangement.

### **Utility subdivisions**

**333.(1)** Where a subdivision is proposed that would create a parcel of land exclusively for the use of a municipal water, sanitary sewer, drainage, electrical, natural gas, telecommunications or other similar service or utility, the parcel may be of such shape and size as may be required, shall only be used for such a utility, and shall vest in the Crown as Yukon lands.

(2) Where a utility occupies a right-of-way which is an easement over other land, the requirements of subsection (1) shall not apply.

**Crown lands**

**334.** All lands dedicated to the public use and lands constituting buffer areas vested in the Crown as Yukon lands by reason of the registration in the land titles office of the plan of the subdivision of land into lots, blocks or parcels, and all land transferred by any person to the Government of the Yukon for public use, may be sold, leased or otherwise disposed of or transferred to any municipality subject to any condition which may be prescribed.

**Regulations**

**335.** The Commissioner in Executive Council may make regulations consistent with this Part for controlling the subdivision of land where, under section 328, the inspector is the approving authority.

**Application to subdivide**

**336.(1)** An owner or any person who proposes to subdivide land, hereinafter referred to as the applicant, shall submit an application to the approving authority in accordance with the requirements of the regulations prescribed by the approving authority.

(2) If the applicant is not the owner of the land to be subdivided, the applicant shall submit to the approving authority the owner's written consent to the subdivision.

**Approval of applications**

**337.(1)** If the application for subdivision complies with this or any other Act and with any bylaw or regulation made thereunder, the approving authority shall approve the subdivision.

(2) Approval of an application shall be valid for a period of 12 months and shall be subject to renewal for one or more periods of 12 months at the discretion of the approving authority.

(3) Subject to any other provisions of this Act, where an approving authority is of the opinion that compliance with a requirement of any applicable regulation is impractical or undesirable because of circumstances peculiar to a proposed subdivision, the approving authority may relieve the applicant in whole or in part from compliance with the requirement, but no relief shall be granted that is contrary to the provisions of an official community plan or zoning bylaw.

**Revocation of approvals**

**338.(1)** An approving authority may revoke an approval of a proposed plan of subdivision where the plan has not been registered in the land titles office or where certificate of title to the land has not been issued, as the case may be, if in its opinion it is necessary to do so.

(2) A revocation of approval of a proposed plan of subdivision may be appealed in the same manner as a refusal to approve the proposed plan may be appealed.



**Refusal of approval**

**339.**(1) Subject to section 337, the approving authority shall refuse to approve a plan of proposed subdivision if the plan is inconsistent with any of the provisions of this Act or of any order, regulation, bylaw or other planning scheme issued, made or approved under this or any other Act.

(2) Where the approving authority refuses to approve a plan of subdivision the authority shall advise the applicant of his right to appeal under this Act and shall notify him respecting the time within which an appeal may be made.

**Appeal of refusal**

**340.** Where an application for approval of a proposed plan of subdivision is refused the applicant may, within 30 days after the date on which he is served with notice of the refusal and after giving written notice to the approving authority of his intention to do so, appeal therefrom to the Yukon Municipal Board.

**Notice of refusal or revocation**

**341.** Where an approving authority refuses or revokes an approval of a proposed plan of subdivision, the authority shall serve the applicant with notice of the refusal or revocation by sending to him a notice thereof to the address contained in the application or by serving him personally with a copy of the notice.

**Delay of approval**

**342.**(1) An application to subdivide land shall be considered approved if a decision has not been made by the approving authority within 90 days of the submission of the application.

(2) Notwithstanding subsection (1), the time allowed for consideration of an application may be extended with the approval of the Executive Council Member.

**Time for renewed applications**

**343.** No subsequent unaltered application for approval of a proposed subdivision of land that provides for the same use of the land shall be made by the same or any other person within six months of the date of the refusal by the approving authority.

**Subdivision by lease or encumbrance**

**344.**(1) Where an instrument

- (a) granting a lease of part only of a parcel of land, or
- (b) charging, mortgaging or otherwise encumbering a part only of a parcel of land

has the effect or may have the effect of subdividing the parcel, the registrar shall not accept the instrument for registration unless it is approved in accordance with this Part, but

- (c) nothing in this section prevents the registration of any such instrument in existence prior to the coming into force of this Act, and
- (d) the length of time during which any such instrument has been in existence shall not be taken into account by the approving authority when considering the application for approval of the subdivision.

(2) Where a parcel of land is separated into two or more areas by a registered plan for a road or right-of-way pursuant to a plan of subdivision or by a natural boundary, the separated areas shall be deemed to be one parcel for the purposes of this Part.

**DIVISION 5 - DEVELOPMENT COST CHARGES**

**Imposition and use of charges**

345.(1) The council may, as a condition of its consent to an application, by bylaw impose development cost charges on every person

- (a) who applies to the approving authority for approval of the subdivision of a parcel of land for any purpose, or
- (b) who applies to the municipality for a building permit authorizing the construction or alteration of buildings or structures for any purpose.

(2) Development cost charges required to be paid pursuant to a bylaw under this section shall be fixed prior to the approval of the subdivision by the approving authority or the issuance of the building permit, as the case may be, and may direct the time and method of payment.

(3) No development cost charge shall be required to be paid

- (a) if a development cost charge has previously been paid with respect to the same development, unless as a result of a further subdivision or development, new capital cost burdens will be imposed on the municipality, or
- (b) where the subdivision or development does not impose new capital cost burdens on the municipality.

(4) A bylaw under subsection (1) shall provide a schedule of development cost charges, and the charges may vary in respect of

- (a) different defined or specified areas or zones,
- (b) different uses,
- (c) different capital costs related to any class of development, and
- (d) different sizes or numbers of units or lots created by or as a result of development.

(5) A development cost charge paid to a municipality shall be deposited in a development reserve fund.

(6) The municipality shall use money deposited in a reserve fund under subsection (5) together with interest on it only for the purpose for which it was deposited, namely:

- (a) a capital payment, including planning, engineering and legal costs, for providing, altering or expanding municipal services and other facilities of benefit to the municipality;
- (b) the payment of a debt incurred as a result of an expenditure made for the purposes set out in paragraph (a),

and the payments shall be authorized by bylaw.

(7) No bylaw under subsection (1) shall be adopted unless the contents have been approved by the Executive Council Member who may, in his discretion and on consideration of the economic circumstances involved,

- (a) grant the approval,

- (b) refuse to grant the approval, or
- (c) withhold or revoke the approval until the terms of the bylaw are altered and amended to his satisfaction and in accordance with his directions.

## **DIVISION 6 - NON-CONFORMING USES**

### **Existing buildings**

**346.** Where at the date of approval of an official community plan or zoning bylaw a building is lawfully under construction or all required permits for the construction of a building have been issued, the building shall be deemed to be a building existing at the date of the approval of the plan or bylaw, but the erection of any such building must be commenced within 12 months after the date of issuance of the last permit relating thereto.

### **Continuation of use**

**347.** The lawful use of land or of a building or other structure existing at the date of the approval of an official community plan or zoning bylaw that does not conform to the plan or bylaw may be continued, but if the non-conforming use is discontinued for a period of 18 months or more the future use of the land, building or other structure shall be in conformity with the plan or bylaw.

### **Extension of use**

**348.**(1) The lawful use of a building existing at the time of the approval of an official community plan or zoning bylaw that does not conform to the plan or bylaw may be extended throughout the building, but no structural alterations, except those required by statute or bylaw, shall be made in the building while the non-conforming use is continued.

(2) For the purpose of this section, repairs, maintenance or installations that do not alter the size of the building or involve the rearrangement or replacement of structural supporting elements shall not be considered to be structural alterations.

### **Substantial damage**

**349.** If a building that does not conform to the provisions of an official community plan or zoning bylaw is destroyed by fire, or otherwise is damaged to an extent of 75 percent or more of the assessed value of the building, it shall not be rebuilt or repaired except in conformity with the provisions of the plan or bylaw.

### **Conforming use of non-conforming building**

**350.** Where the use of a building existing at the time of the approval of an official community plan or zoning bylaw conforms to the plan or bylaw but the building itself does not conform to the full requirements of the plan or bylaw, structural alterations and additions which conform to the requirements of the bylaw may be made but the element of non-conformity shall not be increased by such alteration or additions.

### **Change of ownership or occupancy**

**351.** A change of owner, tenant or occupant of any land or building shall not be deemed to affect the use of the land or the building.

**DIVISION 7 - BUSINESS IMPROVEMENT AREAS**

**Designation and management**

352.(1) The council of a municipality may by bylaw designate any area as a business improvement area and may

- (a) establish a management commission to which may be entrusted the improvement and maintenance of municipally owned property in the area, and the promotion of the area as a business or shopping area, and
- (b) provide for the raising and expenditure of money for the purposes of the business improvement area, which may be expended by the management commission.

(2) Notwithstanding anything contained in subsection (1), an area shall only be designated as a business improvement area if it conforms to the provisions of the official community plan.

**DIVISION 8 - APPEALS**

**Board of variance**

353.(1) A board of variance established pursuant to section 311 shall consist of not less than three or more than nine members, to hear and determine appeals made to it pursuant to this Part.

(2) In a city the board of variance shall be composed of persons who are not members of the council.

(3) Where no board of variance is established, a council may act as the board of variance for up to six months after the municipality is incorporated.

**Appeals to a board of variance**

354.(1) In addition to the right to appeal to the board of variance otherwise provided in this Part, a person may appeal to the board of variance who

- (a) alleges that the council or a person acting for or on behalf of the council has misapplied the official community plan or zoning bylaw in a particular case, or
- (b) claims that there are practical difficulties or unnecessary hardships in the way of carrying out the plan or bylaw by reason of the exceptional narrowness, shortness, shape, topographic features or any other unspecified unusual conditions of a specified property.

(2) A person who appeals under paragraph (1)(b) is not entitled to have his appeal allowed if

- (a) the unusual condition is the result of his or the property owner's deliberate action,
- (b) the adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district, or
- (c) a relaxation of the provisions of the bylaw would be contrary to its purposes and intent and would injuriously affect the neighbouring properties.

(3) The board of variance shall not grant an appeal that would allow a change to a use that is not similar to a use that would be permissible without a variance.

(4) The board may attach such conditions to the granting of an appeal as in its opinion will preserve the purposes and intent of the official community plan and zoning bylaw.

### **Procedure**

**355.(1)** A person desiring to appeal to the board of variance shall file with the secretary of the board written notice of his intention to appeal and shall at the same time pay to the secretary such sum, not exceeding \$200, as may be fixed by bylaw.

(2) The board shall fix a day for the hearing of the appeal which shall be not later than 30 days after the date of the filing of the notice of intention to appeal.

(3) The board shall, not later than ten days before the day fixed for the hearing of the appeal, give notice of the hearing

- (a) by advertisement inserted at least once a week for two successive weeks in a newspaper circulating in the area in which the property in respect of which the appeal is made is situated, and
- (b) by serving a copy of the notice on each assessed owner of property within a radius of 100 metres from the property in respect of which the appeal is made, such notice to be delivered by personal service or by regular first class mail to the address of the owner shown in the latest authenticated assessment roll.

(4) The appellant shall, not later than ten days before the day fixed for the hearing of the appeal, file with the secretary of the board all maps, plans, drawings and written material that he intends to submit in support of the appeal.

(5) The council shall, if required by the board to do so, transmit to the secretary of the board, before the day fixed for the hearing of the appeal, the original or true copies of maps, plans, drawings and written material in its possession relating to the subject matter of the appeal.

(6) All maps, plans, drawings and written material, or copies thereof, filed or transmitted pursuant to subsection (4) or (5) shall, unless otherwise ordered by the board, be retained by the board and be part of its permanent records, but pending the hearing of the appeal all the material shall be made available for the inspection of any interested person.

(7) The hearing of the appeal shall be open to the public, the board shall hear the appellant and every person who desires to be heard in favour of or against the appeal, and the board may adjourn the hearing or reserve its decision for not more than 30 days.

(8) The chairperson of the board or, in his absence, the acting chairperson may administer oaths, affirmations or declarations.

(9) The decision of the board shall be based on the facts and merits of the case and shall be in writing setting forth the reasons for the decision, signed by the chairperson or, in his absence, the acting chairperson, and the secretary, and a copy of the decision shall be delivered

or sent by the secretary to the inspector, the municipality and the appellant within ten days of the date on which the decision is rendered, and to each interested person upon his request.

(10) Subject to subsection (12), an appeal granted by the board shall not become effective until the expiration of 35 days from the date on which the decision is made, or if conditions are affixed pursuant to subsection 354(4), until such time as the conditions have been complied with, whichever is the later.

(11) The inspector, a municipal council, the appellant or any other person may, within 20 days after the date on which a copy of the decision is received and upon written notice to the board of variance, appeal therefrom to the Yukon Municipal Board.

(12) An appeal under subsection (11) in respect of a decision of the board of variance shall have the effect of suspending the decision of the board of variance pending the decision of the Yukon Municipal Board with respect to the decision of the board of variance.

(13) Within ten days after a notice is given to the board of variance pursuant to subsection (11), the secretary of the board shall transmit to the secretary of the Yukon Municipal Board a copy, certified by the first mentioned secretary to be a true copy, of all the records of the board of variance pertaining to the case.

### **Appeals to the Yukon Municipal Board**

**356.(1)** The Yukon Municipal Board shall hear appeals in all cases where provisions for appeals to that board are made pursuant to this Act or by an order or regulation made pursuant to this Act.

(2) The Yukon Municipal Board shall determine all appeals submitted to it and such decisions shall be conclusive and binding on all parties.

(3) A copy of the Yukon Municipal Board's decision shall be sent to each party to the appeal and upon request to any interested person.

(4) If the Yukon Municipal Board has ordered any person to make a report to the board, the board shall include such report in its minutes.

(5) The Yukon Municipal Board or any person authorized by it to make an inquiry or report may enter upon and inspect any land, buildings or other property pertinent to the subject before the board.

## **DIVISION 9 - MISCELLANEOUS PROVISIONS**

### **Offence and penalty**

**357.(1)** A person who

- (a) contravenes any provision of this Part,
- (b) contravenes any provision of an order, regulation, bylaw or official community plan in force pursuant to this Part,
- (c) fails to do any act or thing required to be done by an order, regulation, bylaw or official community plan in force pursuant to this Part,

- (d) suffers or permits any act or thing to be done in contravention of any provision of an order, regulation, bylaw or official community plan in force pursuant to this Part, or
- (e) obstructs or hinders any person in the performance of his duties under this Part or under any order, regulation, bylaw or official community plan in force pursuant to this Part,

is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000 and, in the case of a continuing offence, to a further fine not exceeding \$2,500 for each day during which the offence continues.

(2) In addition to the penalties provided in subsection (1), a person convicted under this section in respect of a use of land or buildings or development carried out in contravention of this Part or any order, regulation, bylaw or official community plan in force pursuant to this Part may be ordered to remove such development at his expense.

### **Land development agreements**

**358.**(1) The council may pass bylaws providing for entering into land development agreements.

(2) Prior to the issuing of any development permit pursuant to an agreement under subsection (1), the council of a municipality may require the owner of the land to which the permit would apply, or his agent, to enter into a land development agreement with the municipality with respect to that land.

(3) Any land development agreement referred to in subsection (2) may include agreement as to

- (a) the use of the land in relation to any existing or proposed building or structure,
- (b) the timing of construction of any proposed building or structure,
- (c) the siting and design, including exterior materials, of any proposed building or structure,
- (d) the provision for traffic control and parking space,
- (e) the provision of open space, the grading of land and landscaping,
- (f) the construction, in whole or in part, of roads, sidewalks, street lighting, storm drainage, water supply distribution and sewage disposal,
- (g) the provision of recreational or other amenities,
- (h) the levying of a fee in lieu of otherwise providing for any of the matters mentioned in paragraphs (a) to (g), and
- (i) the establishment of such other conditions as the council may consider reasonable under the circumstances.

(4) No development permit may be issued and no land development agreement may be made that is contrary to an official community plan.

(5) Except as provided by subsection (4), the use and development of any land to which a development agreement applies shall, notwithstanding any other bylaw of the municipality or any amendment thereto, be in accordance with the land development agreement.

(6) The council may require any land development agreement entered into pursuant to subsection (2) to be registered in the land titles office, and any such agreement as registered shall have the force and effect of a restrictive covenant running with the land.

(7) The council shall not enter into a land development agreement until it has held a public hearing and obtained the approval of the Executive Council Member, and sections 316 to 319 shall apply *mutatis mutandis*.

(8) Nothing in this section restricts the right of any owner to develop his land in accordance with the regulations, restrictions or prohibitions of the municipality applying to the zone in which the land is situated.

**“Development”**

**359.** In this Part, “development” means the carrying out of any building, engineering, mining or other operation in, on or over land, or the making of any material change in the use of any building or land.

## PART 8

### BOARDS AND COMMISSIONS

**General powers of council**

**360.**(1) Council may by bylaw establish remuneration for any board or commission that is established pursuant to council's authority under any Act.

(2) For any board or commission that is established by council pursuant to any Act, the council may in the same bylaw that creates the board or commission or another bylaw

- (a) prescribe the qualifications and terms of office of the members of the board or commission,
- (b) prescribe the manner in which the chairperson and members of the board or commission and their successors, are to be appointed,
- (c) prescribe the manner in which the chairperson and members of the board or commission are to conduct meetings and vote on any matters,
- (d) provide for the appointment and duties of officers and employees if any, and
- (e) provide conflict of interest rules for the direction of the board or committee.

#### DIVISION 1 - YUKON MUNICIPAL BOARD

**Establishment of the board**

**361.** The Commissioner in Executive Council shall establish a board to be known as the Yukon Municipal Board with powers, duties and functions pursuant to this Act.

**Membership and operation of the board**

**362.**(1) The Yukon Municipal Board shall consist of the following members who shall be appointed by the Commissioner in Executive Council to serve at pleasure:

- (a) a chairperson;
- (b) a deputy chairperson;



- (c) one member, and an alternate to act in his absence or incapacity, from among persons nominated by the Association of Yukon Communities;
- (d) one member, and an alternate to act in his absence or incapacity, from among persons nominated by the Council for Yukon Indians;
- (e) one member, and an alternate to act in his absence or in capacity, nominated by the Executive Council Member.

(2) A member of the board may be paid transportation, accommodation and living expenses incurred in connection with the performance of his duties as a member of the board away from his ordinary place of residence but, except as otherwise prescribed, the payment of such expenses shall conform as nearly as possible in all respects to the payment of such expenses for the members of the public service of the Yukon.

(3) A member of the board may be paid such remuneration as may be prescribed for the performance of his duties as a member of the board.

(4) A quorum shall consist of a majority of the members of the board, but a vacancy shall not impair the right of the members to act.

(5) The board may authorize one or more of its members to conduct any of the business of the board, but a decision made by one or more members does not become absolute until confirmed by the board.

- (6) A person is not eligible to become or remain a member of the board if he
- (a) is an employee or salaried officer of a municipality,
  - (b) is a member of the public service of the Yukon,
  - (c) is a member of a municipal council or the Legislative Assembly, or
  - (d) while a member of the board, takes part in any proceedings of the board where the member has a direct or indirect pecuniary interest in the matter the board is considering.

(7) The board shall sit at such time and places as the chairperson may designate.

(8) The board may make rules regulating the conduct of its proceedings.

- (9) The Executive Council Member shall appoint a secretary to the board who shall
- (a) keep a record of all proceedings,
  - (b) have custody and care of all records and documents, and
  - (c) obey the directions of the chairperson relating to his office.

(10) The Executive Council Member may, on the recommendation of the board, appoint one or more experts or persons having appropriate technical knowledge to assist the board in an advisory or other capacity.

(11) Members of the board shall swear an oath of office as prescribed.

(12) No member of the board or its secretary or person appointed to assist the board shall be personally liable for anything done under the authority of this Act.

**Powers of the board**

**363.**(1) For the purposes of this Act, the Yukon Municipal Board has all the powers of a board of inquiry appointed under the Public Inquiries Act and has the authority to hear and determine all questions of law or fact in matters assigned to the board under this or any other Act.

(2) In conducting its proceedings, the Yukon Municipal Board is not bound by any rules of evidence, and it may hear and consider any relevant evidence and give to that evidence such credence and weight as the board thinks it deserves.

(3) The Yukon Municipal Board may adopt a seal bearing its name.

**Additional powers**

**364.** In addition to its powers in relation to appeals and approvals given to it under other provisions of this Act, the Yukon Municipal Board may

- (a) perform such duties as the Commissioner in Executive Council delegates to it, and
- (b) hear any appeals to it that may be provided for under the Area Development Act or the Building Standards Act.

**Exercise of powers**

**365.**(1) The board shall exercise its powers by resolution which shall be submitted to the Commissioner in Executive Council, who may make such orders as are deemed necessary in the public interest.

(2) The provisions of subsection (1) do not apply in cases where the board approves an official community plan or determines any appeal in accordance with the provisions of this Act.

**DIVISION 2 - MUNICIPAL BOARDS AND COMMISSIONS****Parks and recreation commission**

**366.** The council may by bylaw

- (a) establish a parks and recreation commission as an agent of the municipality,
- (b) empower the commission to organize and conduct a recreation program,
- (c) empower the commission to operate, improve and maintain any parks, playgrounds or other land set aside for recreation purposes and the buildings or structures thereon, and
- (d) empower the commission to incur liabilities for the purposes of this section within the amounts included therefor in the annual budget of the municipality.

**Emergency Measures Commission**

**367.**(1) Subject to the provisions of the Civil Emergency Measures Act, council shall by bylaw establish a civil emergency measures commission and appoint the members thereof.

(2) Council may appoint a civil emergency coordinator who shall carry out the instructions of the commission.

(3) Council may empower the commission to incur liabilities within the amounts included therefor in the annual budget.

### **Public Transit Commission**

**368.**(1) The council may, by bylaw

- (a) establish a public transit commission as an agent of the municipality and provide for the appointment and remuneration of its members,
- (b) delegate to the public transit commission the performance of some or all of the functions council may provide for under section 283,
- (c) empower the commission to incur liabilities for the purposes of the organization, operation or maintenance of a public transit system within the amounts included therefor in the annual budget of the operations of the commission as approved by the council,
- (d) provide for the expenditure of funds of the municipality with respect to the organization, operation or maintenance of a public transit system, and
- (e) prescribe such other powers or duties of the commission as are necessary for organization, operation or maintenance of a public transit system.

(2) Where a public transit commission is established under subsection (1), the commission shall, in addition to any duties imposed by bylaw,

- (a) establish and monitor the general operating policies of any public transit system organized, operated or maintained by the commission,
- (b) on or before November 15 in each year, prepare and submit an operating and capital budget of the operations of the commission for council's review and approval, and
- (c) prepare and submit annually, and as requested by council, a report on the operations of the commission for council's review.

### **Municipal Planning Board**

**369.**(1) The council may by bylaw appoint a board to be known as the municipal planning board to advise and assist the council with respect to all matters pertaining to community planning and the orderly development of the municipality.

(2) A majority of the members of the board shall be persons who are not members of the council or employees of the municipality.

### **Operation of the planning board**

**370.** The board may perform such duties of a planning nature as may be referred to it by the council and do such other things as it considers necessary in connection with the planning and orderly development of the municipality.

## PART 9 MISCELLANEOUS

### DIVISION 1 - ADDITIONAL POWERS

#### **Municipal holidays**

371. Council may declare a public holiday which shall be observed within the municipality on the day named by the council, or council may authorize the mayor to determine and proclaim the day.

#### **Municipal flag and crest**

372. Council may by bylaw adopt a flag, crest or coat of arms for the municipality and may make restrictions on its use.

#### **Municipal census**

373. Council may take a census of the municipality.

#### **Assistance to businesses**

374.(1) A council may by bylaw provide the following forms of assistance to help an industrial or commercial enterprise or undertaking, but only with the approval of the Executive Council Member:

- (a) a gift or loan of money or of any municipal property;
- (b) a guarantee of any borrowing;
- (c) an exemption from taxation or service charges or fees.

(2) Any bylaw, contract or obligation contrary to subsection (1) is unenforceable.

#### **Agreements with other municipalities**

375. A municipality may join with any other municipality for the purpose of exercising any powers conferred by this Act, but no agreement made pursuant to this section is valid until approved by the Executive Council Member.

#### **Membership in associations**

376.(1) A municipality may become a member of any association of municipalities for furthering the interests of municipalities, and the council may authorize payment of fees for such membership and the payment of contributions to any such association and of the cost of sending delegates of the municipality to meetings of any such association.

(2) A municipality may become a member of any non-profit association or organization that council deems to be for the advancement of the interests of the municipality.

#### **Additional powers of council**

377. In addition to all powers and authorities vested in or conferred upon the council under this or any other Act, the Commissioner in Executive Council may from time to time confer upon the council such further powers with respect to the management and disposal of the assets of the municipality as the Commissioner in Executive Council deems advisable, and thereupon the council shall have and may exercise the powers so conferred.

**Privileges and discrimination**

**378.**(1) Except where it is specifically provided to the contrary, a council shall not have the power to grant to any person any particular privilege or exemption from the ordinary jurisdiction of the corporation or to grant any charter bestowing a right, franchise or privilege, to give any bonus or exemption from any tax, rate or rent, or to remit any tax or rate levied or rent chargeable.

(2) Notwithstanding subsection (1), council may by bylaw cancel any arrears of taxes appearing on the tax roll where such taxes are not secured against land in the municipality and, in the opinion of council, are no longer collectable from the person liable to pay the same.

**Additional powers of council**

**379.** Upon receipt of a petition from the council of a municipality, the Commissioner in Executive Council may, to the extent not inconsistent with the intent of this or any other Act, confer such further powers upon the council as are necessary to preserve and promote the peace, order and good government of the municipality and to provide for the protection of persons and property.

**Ancillary powers of council**

**380.** Council in addition to the powers specifically allotted to it, shall have power to do all such things as are incidental or conducive to the exercise of the allotted powers.

**Computer copyright**

**381.** A computer data base, magnetic tape or computer program prepared for the purposes of a municipality by a consultant or data, processing company upon payment of the agreed price, is the property of the municipality.

**DIVISION 2 - ENFORCEMENT OF BYLAWS AND RESOLUTIONS****Penalties**

**382.** Council may make bylaws or make provision in existing bylaws for the purposes of enforcing the bylaws of the municipality by fine or imprisonment, or both, and for inflicting fines, penalties and costs.

**Enforcement powers**

**383.**(1) Where pursuant to this Act a council has authority to direct, by bylaw or otherwise, that any matter or thing be done by any person or that regulations be observed, the council may, in the same or some other bylaw,

- (a) authorize any employee or enforcement officer of the municipality to order any person carrying out any work or doing anything contrary to the provisions of such bylaw forthwith to cease carrying out such work and doing such things,
- (b) provide that failure to obey such order is an offence, and
- (c) authorize appointed officers to enter at all reasonable times upon any property subject to the regulations of council in order to ascertain whether such regulations or directions are being obeyed.

(2) The council or any person authorized by the council may apply to the Supreme Court for an injunction ordering any person to cease carrying out any work or doing anything contrary to the provisions of any bylaw mentioned in subsection (1), and where the Supreme Court is satisfied

- (a) that an employee of the municipality has ordered any person carrying out any work or doing anything contrary to the provisions of such bylaw to cease carrying out the work or doing the thing, and
- (b) that such person has failed to obey the order,

the Supreme Court shall issue an injunction ordering such person to cease carrying on the work or doing the thing together with any ancillary orders necessary thereto.

(3) The council may by bylaw

- (a) provide for the appointment of enforcement officers who may be sworn in as peace officers, and
- (b) designate such other officers as the council deems expedient for the proper carrying out of the business and good government of the municipality,

and may define their duties and responsibilities.

**Addition of costs or charges to taxes**

384.(1) Whenever a council has authority to direct that any matter or thing should be done by any person, the council may also direct that, in default of its being done by that person, such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof with interest as prescribed by bylaw with approval of the Executive Council Member with costs in like manner as municipal taxes.

(2) A bylaw in relation to charges in respect of sewerage works, the removal and disposal of garbage and other waste matter, and the water distribution system may provide that in default of payment of the charge the outstanding amount owing may be charged against the real property in respect of which the service was provided and recovered as part of the taxes levied on that real property.

**Court proceedings on offences**

385. Any justice of the peace or judge of the Territorial Court before whom a prosecution is had for an offence against a municipal bylaw may convict the offender on the oath or affirmation of any credible witness, and may impose the whole or part of the penalty or punishment authorized by the bylaw with the costs of prosecution.

**Conflict of interest**

386. A justice of the peace or a judge of the Territorial Court is not disqualified to act as such where, in case of a conviction, the fine or penalty or part thereof goes to the municipality in which the justice or judge of the Territorial Court is a ratepayer or a member of the council.

**“Bylaw”**

387. In this Division, “bylaw” includes an order or resolution.

**Enforcement procedure**

388. The procedures set out in section 205 shall apply to the institution of all proceedings for the enforcement of bylaws.

**DIVISION 3 - EXPROPRIATION AND INJURIOUS AFFECTION****Compensation**

**389.**(1) The council shall make to owners, occupiers or other persons interested in real property entered upon, taken or used by the municipality in the exercise of any of its powers, or injuriously affected by the exercise of any of its powers, due compensation for any damages, including interest, necessarily resulting from the exercise of such powers beyond any advantage which the claimant may derive from the contemplated work, and a claim for compensation, if not mutually agreed upon, shall be decided by three arbitrators to be appointed by the Commissioner in Executive Council.

(2) Subject to this Act, the arbitrators or a majority of them may determine the procedure for conducting the arbitration.

(3) For the purposes of subsection (1), the rate of interest shall be the prime lending rate of the Bank of Canada in effect on the most recently preceding July 2, and the interest accrues from the day on which the property was taken, entered upon or used.

(4) The provisions of this section do not apply to Part 7 of this Act.

**Arbitration procedure**

**390.**(1) The arbitrators appointed as aforesaid shall be sworn before a justice of the peace, well and truly to decide the questions between the person claiming compensation as aforesaid and the municipality.

(2) The arbitrators shall attend at some convenient place in the municipality, after not less than eight days notice has been given by or on behalf of the municipality, or by the claimant for compensation, then and there to arbitrate and award, adjudge and determine such matters and things as shall be submitted to their consideration.

(3) An award made and agreed to in writing by any two of the arbitrators is final, except that any award under this Act is subject to be set aside on application to the Supreme Court exclusively on the grounds that the arbitrators have been guilty of misconduct or have awarded the compensation on a wrong principle, in which case reference shall be made again to arbitration as hereinbefore provided.

(4) In all cases of reference to arbitration under this Act the Supreme Court may from time to time remit the matters referred or any of them, or the award thereon, to the reconsideration of the arbitrators.

**Limitation period**

**391.** Every claim for compensation under this Act made by a person shall be made within one year from the date when the real property was so entered upon or used, when the alleged damages were sustained or became known to the claimant, or in case of a continuance of damage, then within one year from the time when the cause of action arose or became known to the claimant.

**Notice**

**392.** A bylaw adopted for entering upon, breaking up or using any real property without the consent of the owner thereof shall, before coming into effect, be published in a newspaper circulating in the municipality.

**DIVISION 4 - ACTIONS, SUITS AND EXECUTIONS**

**Limitation periods**

**393.** Except as otherwise provided in this Act,

- (a) every action against a municipality for the unlawful doing of anything purporting to have been done by the municipality under the powers conferred by any Act, and which might have been lawfully done by the municipality if acting in the manner prescribed by law, shall be commenced within six months after the cause of the action first arose, and
- (b) actions against a municipality other than those mentioned in paragraph (a) shall be commenced within one year after the cause of the action arose.

**Execution against municipalities**

**394.**(1) No writ of execution against a municipality shall be issued without leave of a judge and every judge has discretion to permit the writ to issue at such time and upon such conditions as he shall think proper, to refuse to permit the writ to be issued, or to suspend execution thereunder upon such terms and conditions as he may think proper or expedient having regard to the reputed insolvency of the municipality and the security afforded to the person entitled to the judgment by reason of its registration.

(2) An appeal from the decision of any judge with reference to any application for a writ of execution may be taken by either party under the same rules as may for the time being apply to any other order made by a judge in chambers.

**Service of documents**

**395.** Where by this Act or any bylaw made thereunder a writ, notice or other document is required to be served on or sent by registered mail to the municipality or the clerk, it shall be served or sent by leaving it at or sending it by registered mail to the office of the clerk.

**Enforcement of execution**

**396.** Where the amount owing on a writ of execution together with all costs thereon is not paid to the sheriff within one month after service on the clerk, the sheriff shall examine the assessment rolls of the municipality and shall, in like manner as rates are struck for general municipal purposes but without limiting the amount of the rate, strike a rate on the dollar sufficient to cover the amount due on the execution with such addition to it as the sheriff deems sufficient to cover the interest and his own fees.

**Addition of execution amount to the tax roll**

**397.** The sheriff shall, after striking a rate pursuant to section 396, issue a praecipe under his hand and seal of office directed to the treasurer of the municipality and shall annex the praecipe to every tax roll showing the rate and particulars thereof, stating that the municipality has neglected to satisfy the writ of execution and commanding the treasurer to levy the rate forthwith.



**Entry on tax demand notices**

**398.** Where at the time of levying a rate pursuant to the praecipe of the sheriff, the tax demand notices for that year have not been issued, the clerk shall add a column on the notices, headed "execution rate in A.B. v. the municipality", and shall insert therein the amount required by him, but where the tax demand notices for the year have been issued he shall proceed to issue separate tax demand notices for the execution rate.

**Satisfaction of the writ**

**399.** The sheriff shall, after satisfying the execution and all fees thereon, pay any surplus within ten days after receiving all the same to the clerk, and such amounts shall form part of the general revenue fund of the municipality.

**Security in court proceedings**

**400.** In the event of any municipality being ordered and required to pay into the court any money as security for the payment of any judgment or other debt, as security for any damages or costs or as security for the costs of any appeal from the decision of any court or any arbitrator, the council of the municipality may borrow such sums of money as may be requisite for that purpose.

**Exemptions from execution**

**401.** The corporate seal, tools, machinery, equipment and records, office furniture, fixtures and fittings of every municipality shall be exempt from forced seizure or sale by any process of law.

**Costs in court proceedings**

**402.** In any court proceedings under this Act, costs awarded to a municipality shall not be disallowed or reduced upon such taxation merely because the lawyer who earned such costs, or in respect of whose service costs are charged, was salaried officer of the municipality.

**DIVISION 5 - INSPECTOR OF MUNICIPALITIES****Appointment and powers**

**403.**(1) The Commissioner in Executive Council shall appoint an officer to be known as the inspector of municipalities who has such powers and duties in addition to those prescribed under this Act as may be assigned to him by the Commissioner in Executive Council and shall hold office at pleasure.

(2) The inspector shall, subject to the direction of the Executive Council Member, administer this Act, insure that its provisions be carried out, and perform such other duties as may devolve upon him under this or any other Act.

(3) The inspector may, by himself or by any deputy or other person authorized by him, inspect the records of any municipality and, for this purpose, every officer of any municipality shall make available to the inspector any record or document relating to the conduct of the municipality.

**Seal**

**404.**(1) The inspector shall have an official seal inscribed with the words “Inspector of Municipalities of Yukon”.

(2) Every paper, writing or instrument purporting to be issued by the inspector and impressed with the seal of his office is admissible in evidence in all courts of the Yukon without proof of such sealing or of the signature of the inspector or of his deputy to such paper, writing or instrument.

**Copies of records**

**405.** The record of any document or instrument forming part of the records of the office of the inspector or any copy of the same, or any copy of any document or instrument kept in his office, certified to be a true copy under the hand of the inspector or his deputy, is admissible in evidence in all courts in the Yukon as of equal validity with the original document or instrument.

**DIVISION 6 - APPOINTMENT OF ADMINISTRATOR****Circumstances for and effect of appointment**

**406.**(1) Where

- (a) a municipality has failed to or cannot make due provision for the payment of either the principal of or interest on any loan, or
- (b) the council has failed to carry out any duty or function imposed on it pursuant to this Act,

the Commissioner in Executive Council may by order appoint a person as administrator of the municipality.

(2) On the appointment of an administrator of a municipality, the council shall be deemed to have retired from office and to be no longer qualified to act for or on behalf of the municipality or to exercise any of the powers and duties vested in the council by this or any other Act.

**Powers**

**407.** The administrator shall, subject to this Act, have, possess and enjoy and may exercise all the powers and duties of a duly constituted council.

**Access to records**

**408.**(1) The administrator may demand and is entitled to receive from officers of the municipality all money, securities, evidence of title, books, assessment rolls, tax rolls, bylaws, papers and documents of or relating to the affairs of the municipality in their possession or under their control.

(2) Any person who fails or refuses to comply with the demand of the administrator made pursuant to subsection (1) is liable upon summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

**Bond**

409. The administrator shall be bonded in such amount as the Commissioner in Executive Council determines for the due and faithful performance of his duties, and the premium shall be paid by the municipality.

**Consultation requirements**

410.(1) In the administration of the affairs of the municipality and prior to the making of any expenditure or the incurring of any liability on account of the municipality, the administrator shall consult with and be guided by the advice and directions of the Executive Council Member, as the order appointing the administrator or any subsequent order provides.

(2) The Commissioner in Executive Council shall appoint a local committee of two or more residents with whom the administrator shall consult in relation to the conduct of the affairs of the municipality.

**Realization of assets**

411.(1) For the purpose of realizing upon the outstanding assets of the municipality, the administrator has all the powers and duties of the council.

(2) All amounts realized upon such assets shall be devoted to the payment of the then existing liabilities of the municipality in such manner and to such extent as is determined by the Executive Council Member.

**Rate of taxation**

412. Notwithstanding anything in this Act, the Commissioner in Executive Council shall determine the rate of taxation which shall be levied in the municipality for which an administrator has been appointed.

**Records and reports**

413.(1) The administrator shall keep books of account relating to the affairs of the municipality and showing its financial condition, and the books shall be open at any time to the examination and inspection of the Executive Council Member or any person authorized by him in that behalf.

(2) At least once every month or as specified in the order of appointment, the administrator shall furnish to the Executive Council Member a statement of the financial condition of the municipality, including a statement of its assets and liabilities.

(3) A record of all proceedings relating to the affairs of the municipality shall be kept by the administrator.

**Bylaws**

414. All bylaws passed by the administrator must be approved by the Executive Council Member before becoming effective.

**Remuneration**

415. The administrator shall be paid out of the funds of the municipality for his services and such reasonable travelling and other expenses as the Commissioner in Executive Council determines.

**Revocation of appointment**

416. Where the Commissioner in Executive Council in his discretion considers it advisable to provide that the affairs of the municipality shall again be conducted by a council, he shall by order revoke the appointment of the administrator and make suitable provisions for the election of a new council.

**DIVISION 7 - MISCELLANEOUS**

**Bylaws of the Town of Faro**

417.(1) This section applies only in respect of the Town of Faro.

(2) Where a bylaw of the Town of Faro is in relation to an expenditure on any capital item or aggregation of capital items in one scheme, and the expenditure exceeds one-quarter of one percent of the total current assessed value of all real property within the municipality that is subject to property taxes or grants in lieu of property taxes, that bylaw shall not be valid if, prior to the third reading, it is objected to in a written objection delivered to the office of the town clerk and signed by or on behalf of one or more taxpayers who represent not less than 50 percent of the current assessed value of real property in the town subject to taxes.

(3) A copy of every proposed bylaw referred to in subsection (2), or of an accurate synopsis of it, shall be posted in at least four conspicuous public places in the Town of Faro for at least four consecutive weeks immediately before the date of the third reading, and the council shall not give the proposed bylaw third reading until at least 30 days after it was given second reading.

(4) Where a bylaw of the Town of Faro is in relation to the imposition of taxes or in relation to borrowing, other than borrowing under section 225, the bylaw shall not be valid unless it has the assent of the Executive Council Member.

**Regulations**

418. The Commissioner in Executive Council may make such regulations and prescribe such forms as he deems necessary for carrying out the purposes and provisions of this Act.

**Effect of old regulations, bylaws, licences, etc.**

419. All orders, regulations, contracts, licences, bylaws and other documents pertaining to any municipality or local improvement district issued pursuant to any Act prior to the coming into force of this Act that are not inconsistent with the provisions of this Act shall remain in effect until such time as they expire or are expressly repealed.

# **CHAPTER 120**

## **MUNICIPAL FINANCE ACT**

### **Interpretation**

**1.(1)** In this Act,

“dwelling unit” means one or more rooms in a building constituting a self-contained dwelling place used or intended to be used as a place of habitation by one or more persons, and includes any place that is prescribed in the regulations to be a dwelling unit, but does not include any place

- (a) that is a hotel or motel room or suite offered for rent or occupation on a daily or weekly basis,
- (b) that is excluded by the regulations, or
- (c) that may not lawfully be used for the purposes of habitation;

“municipal operating grant” means an amount payable under sections 7, 8 and 9.

(2) Terms used in this Act have the same meaning as in the Municipal Act, except where the context in which they are used requires otherwise.

## **PART 1**

### **GRANTS TO GENERAL REVENUE**

#### **GRANT IN LIEU OF TAX**

### **Amount of grant**

**2.(1)** The Government of the Yukon may pay to each municipality in each year a grant in lieu of taxes in an amount not exceeding the aggregate of the amounts of taxes that would be payable for that year under the Assessment and Taxation Act in respect of all real property of the Government of the Yukon in the municipality if that property were not exempt from taxation.

(2) For the purposes of subsection (1), “real property of the Government of the Yukon” means real property of the Government of the Yukon in respect of which no taxes are payable under the Assessment and Taxation Act and which is used in the ordinary administration of the Government of the Yukon or any agency of it,

- (a) including any such property that is an historic place within the meaning of the Historic Sites and Monuments Act, or an historic museum established under that Act, but
- (b) excluding any property in respect of which taxes are to be paid by the occupant under subsection 50(3) of the Assessment and Taxation Act, and land that is vacant, that is used for the purpose of highways, that is used as a park or game sanctuary, or that is exempted from this section by the regulations.

(3) For the purposes of subsection (1), “taxes” does not include school taxes levied under section 54 of the Assessment and Taxation Act.

**Schedule of government property**

3. The Government of the Yukon shall, before May 15 in each year, transmit to each municipality a schedule describing the real property in respect of which a grant in lieu of taxes may be paid for that year.

**Statement from municipality**

4. A grant in lieu of taxes shall not be paid to a municipality until the Executive Council Member has received a written request from the municipality stating

- (a) the total amount of taxes that would be payable for the current year under the Assessment and Taxation Act in respect of the property listed in the schedule under section 3 if that property were not exempt from taxation under that Act, and
- (b) the amount of the taxes referred to in paragraph (a) that are local improvement taxes.

**Assessment**

5. For the purposes of determining the amount of a grant in lieu of taxes, the assessment of the property in respect of which the grant is payable may be the subject of a complaint or an appeal under the Assessment and Taxation Act, and the assessment of the property as determined under that Act binds the Government of the Yukon.

**Advance for federal grant**

6.(1) The Government of the Yukon may pay to a municipality a refundable advance in respect of any grant in lieu of taxes payable by the Government of Canada.

(2) An advance under subsection (1) may be paid only where

- (a) the unpaid part of the grant in lieu of taxes is a substantial part of the municipality’s total revenue, and
- (b) the municipality needs the money before the unpaid part of the grant in lieu of taxes will likely be paid.

(3) A municipality that receives an advance under subsection (1) shall refund the amount of the advance to the Government of the Yukon as soon as practicable after the municipality receives the grant in lieu of taxes in respect of which the advance was paid.

**MUNICIPAL OPERATING GRANT**

**Grant to be paid**

7. The Government of the Yukon may pay to each municipality in each year a municipal operating grant comprising an assessment equalization grant and, subject to subsection 9(2), a dwelling unit grant.

**Assessment equalization grants**

8.(1) The assessment equalization grant shall be calculated by multiplying the assessment deficiency by the average tax rate, and then multiplying the product of that calculation by the number of dwelling units in the municipality.

(2) For the purpose of subsection (1), in a municipality other than the City of Whitehorse, the assessment deficiency shall be calculated by subtracting the assessment per dwelling unit in the municipality from the assessment per dwelling unit in the City of Whitehorse.

(3) No assessment equalization grant shall be paid to the City of Whitehorse.

(4) For the purpose of subsection (2), the assessment per dwelling unit shall be calculated by dividing the total assessed value of all property subject to assessment under the Assessment and Taxation Act in the municipality by the number of dwelling units in the municipality.

(5) For the purpose of subsection (1), the average tax rate shall be calculated by taking the total assessed value of all property subject to assessment under the Assessment and Taxation Act in all municipalities and determining what tax rate would be necessary to produce from that total assessed value an amount equal to the total revenue of all municipalities from property tax levied under section 53 of the Assessment and Taxation Act and from grants in lieu of taxes in the fiscal year of the municipalities preceding the fiscal year in respect of which the municipal operating grant is to be paid.

### **Dwelling unit grants**

9.(1) Dwelling unit grants shall be payable and calculated in the manner described in this section.

(2) Where the aggregate of funds available for grants to municipalities under section 11 is not fully disposed of through payment of assessment equalization grants, the balance shall be distributed among the municipalities according to the ratio that the number of dwelling units in each municipality bears to the total number of dwelling units in all the municipalities.

(3) For the purpose of subsection (1), the number of dwelling units in each municipality that has fewer than 250 actual dwelling units, or such other number as may be prescribed, shall be deemed to be the product obtained by multiplying the actual number of dwelling units in the municipality by a factor that shall be prescribed from time to time and be known as the diseconomy of scale factor.

### **Assessment roll information**

10. Assessment roll information needed for calculations under sections 8 and 9 shall be obtained from the assessment roll used by the municipality for taxes in the fiscal year of the municipality preceding the fiscal year in respect of which the municipal operating grant is to be paid.

### **Increase in operating grants**

11.(1) Subject to subsections (2), (3), and (4), the annual aggregate of municipal operating grants to be paid to municipalities may be increased from one year to the next by a rate not exceeding the lesser of the rate of increase in the total revenues or expenditures of the Government of the Yukon as shown in the main estimates approved by the Legislature for the Government of the Yukon fiscal year immediately preceding the fiscal year in respect of which the grants are payable.

(2) Expenditures in relation to capital items and increases in expenditures and revenues of the Government of the Yukon in consequence of the Government of the Yukon assuming, after April 1, 1982, programs previously administered by the Government of Canada shall not be included in revenues or expenditures for the purpose of subsection (1).

(3) Where in any year a new municipality is incorporated,

- (a) subsection (1) continues to apply to the payment of municipal operating grants to other municipalities for that year as if the incorporation had not taken place,
- (b) a separate appropriation shall be made for the payment of the municipal operating grant to the new municipality for that year, and
- (c) the amount of the municipal operating grant paid to the new municipality for that year shall, for the purpose of the application of subsection (1) in the immediately ensuing year, be added to the aggregate of the municipal operating grants to be paid to other municipalities in the year of the incorporation.

(4) Where in any year a municipality is dissolved, for the purpose of the application of subsection (1) in the year immediately following the year in respect of which the last payment of a municipal operating grant is paid to the dissolved municipality, the aggregate of the municipal operating grants paid to municipalities in respect of the year in respect of which that last payment was made shall be deemed to have been reduced by the amount of the payment made.

#### **Time for payment of grant**

12. Municipal operating grants payable shall be paid in two equal instalments, the first in the month of April and the second in the month of September of the year in respect of which the grant is payable.

### **GENERAL**

#### **Annual budget**

13. The amount of every grant payable to a municipality under this Part, or an estimate of it, shall be shown separately in the annual operational budget of the municipality adopted by the municipality under section 211 of the Municipal Act.

## **PART 2**

### **GRANTS FOR SPECIFIC PURPOSES**

#### **MUNICIPAL SERVICES GRANTS**

##### **Grant for operation and maintenance costs**

14.(1) The Government of the Yukon may in accordance with this Part pay to a municipality municipal services grants to cover a portion of the cost of the operation and maintenance by the municipality of the following facilities and services:

- (a) cemeteries;
- (b) water delivery by truck;
- (c) public transit;



- (d) septic tank sewage education;
- (e) piped water and sewer utilities;
- (f) community planning;
- (g) such other facilities or services as may be prescribed.

(2) Every municipal services grant shall specify the facility or service in respect of which it is paid.

(3) A municipal services grant shall be used for no purpose other than the operation or maintenance of the facility or service in respect of which it is specified to be paid.

(4) A municipal services grant shall not be paid in respect of the operation or maintenance of a facility or service unless the Executive Council Member has approved the fees to be charged to the persons using the facility or service in the year in respect of which the grant is to be paid, and the Executive Council Member has approved the method in which the facility or service is operated by the municipality.

(5) For each of the facilities or services referred to in paragraphs (1)(a) to (g), the Commissioner in Executive Council may prescribe the amount or the means of calculating the amount of the municipal services grant, but in no case shall the amount of the grant be as great as the total cost of the operation and maintenance of the facility or service during the year in respect of which the grant is made.

### **EXTRAORDINARY FINANCIAL ASSISTANCE**

#### **Grant and prerequisites for grant**

**15.(1)** The Government of the Yukon may at any time in accordance with this section, pay to a municipality extraordinary financial assistance where the municipality faces extraordinary financial difficulty.

(2) No extraordinary financial assistance shall be paid to a municipality unless the municipality files with the Executive Council Member a detailed proposal satisfactory to the Executive Council Member setting forth the plans of the municipality for the rectification of the difficulty in respect of which the grant is to be paid.

### **GENERAL**

#### **Accounting for grants**

**16.** The expenditure of every grant paid to a municipality under this Part shall be accounted for separately in the financial records of the municipality, and in the financial statements of the municipality prepared under section 241 of the Municipal Act.

## **PART 3**

### **MISCELLANEOUS**

#### **Appropriation required**

**17.** Notwithstanding any other provision of this Act, it shall be a condition precedent to any payment under this Act that an appropriation be made by the Legislature.

**Regulations**

**18.** The Commissioner in Executive Council may make regulations for carrying into effect the purposes of this Act, including regulations

- (a) respecting the procedure for making applications for grants and the information required to be submitted in support of an application;
  - (b) prescribing dwelling units;
  - (c) excluding places from the definition of dwelling unit;
  - (d) prescribing the diseconomy of scale factor;
  - (e) prescribing a right and procedure for appeals by a municipality in respect of the Executive Council Member's determination about the number of dwelling units in the municipality;
  - (f) prescribing special conditions upon which municipal services grants not otherwise provided for in this Act may be made;
  - (g) prescribing conditions upon which extraordinary financial assistance may be provided.
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# CHAPTER 121

## NOISE PREVENTION ACT

### Interpretation

#### 1. In this Act,

“premises” includes the land appertaining to a building or other structure and land that does not have any building or other structure located on it;

“sound amplification device” includes radios, televisions, record players, tape players, disc players, electronically amplified musical instruments and public address systems.

### Person making noise

2. Between the hours of 11 o'clock in the afternoon and seven o'clock of the forenoon next following, no person shall, by operating any sound amplification device, or by fighting, screaming, shouting, swearing, singing or using insulting or obscene language, make in any premises or vehicle noise that disturbs the peace and quiet of persons outside the premises or vehicle in which the noise is made.

### Owner or occupier of premises

3.(1) Between the hours of 11 o'clock in the afternoon and seven o'clock of the forenoon next following, no owner or occupier of premises or a vehicle shall permit any other person to make in the premises or vehicle, by operating any sound amplification device, or by fighting, screaming, shouting, swearing, singing or using insulting or obscene language, noise that disturbs the peace and quiet of persons outside the premises or vehicle in which the noise is made.

(2) For the purposes of subsection (1),

- (a) a person whose name is shown on a certificate of title in the land titles office as an owner of an interest in land on which the premises are located shall be presumed to be an owner of the premises in the absence of evidence to the contrary,
- (b) a person who is in possession of premises pursuant to a lease or tenancy agreement, whether written or not, shall be presumed to be an occupier of the premises in the absence of evidence to the contrary,
- (c) subject to paragraph (d), the person in whose name a motor vehicle is registered under the Motor Vehicles Act shall be presumed to be the owner of the vehicle in the absence of evidence to the contrary, and
- (d) in the case of a motor vehicle rented or leased from a person in the business of renting or leasing motor vehicles, the owner of the vehicle shall be presumed to be the person to whom the vehicle is rented or leased.

### Offence and penalty

4. Every person who contravenes this Act commits an offence and is liable on summary conviction to a penalty not exceeding \$1,000 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

**Arrest**

5.(1) Where a peace officer has reasonable and probable grounds to believe and does believe that a person is committing an offence under this Act, the peace officer may arrest that person without warrant in order to establish the identity of the person, and shall release that person upon establishing his or her identity.

(2) Subsection (1) shall not be construed to authorize a peace officer to enter without warrant a place that the peace officer may lawfully enter only with a warrant.

**Command to stop conduct**

6.(1) Where a peace officer finds a person committing an offence against this Act the peace officer may command that person to stop the conduct that gives rise to the offence.

(2) A person who has been commanded under subsection (1) to stop conduct that gives rise to an offence against this Act shall stop the conduct.

**Injunction**

7. The Executive Council Member or a person affected by a contravention of this Act may apply to a judge of the Supreme Court and the judge may grant an injunction to restrain a contravention of this Act.

**Not to bar civil action**

8. Nothing in this Act limits or interferes with the right of any person to bring and maintain a civil action for damage occasioned by any noise or sound from a public address system, loudspeaker or amplifier or by any nuisance arising from such noise or sound.

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# CHAPTER 122

## NOTARIES ACT

### **Roll of notaries public**

1. There shall be prepared and kept in the office of the Executive Council Member a roll to be called the roll of notaries public.

### **Application for enrolment**

2.(1) Every person who seeks enrolment as a notary public shall make application in the prescribed form to the Executive Council Member and pay the prescribed fee.

(2) No application shall be accepted unless the applicant is a citizen of Canada or a person who has the status of a permanent resident of Canada and is a resident of the Yukon.

(3) Every application accepted by the Executive Council Member shall be reported to the Supreme Court.

### **Order for and enrolment**

3. The Supreme Court, if satisfied that the applicant is of good character, and that there is need for a notary public in the place where the applicant desires to practise, shall order that the applicant be examined in the duties of a notary public and that, if found qualified after such examination, the applicant be enrolled as a notary public.

### **Power of judge to provide for examinations**

4. A judge shall from time to time appoint a person or persons to conduct the examination of applicants, and shall prescribe the subjects in which they shall be examined, and shall fix the fees to be paid to the examiners by the applicants, and, generally, may make rules in respect of examinations.

### **Enrolment after examination**

5. Upon the applicant filing proof in the prescribed form with the Executive Council Member that he has passed the examination, and has taken the oath of office, in the prescribed form before a judge of the Supreme Court, or the Territorial Court, the Executive Council Member shall enroll the applicant as a notary public and shall record upon the roll a memorandum of the area within which the notary public is authorized to practise.

### **Terms of office**

6. Every person enrolled pursuant to section 5 may hold office for a period not exceeding five years but his enrolment may be renewed on application to the Executive Council Member and payment of the prescribed fee.

### **Strike-off and suspension**

7. The Supreme Court has full power and authority upon application by the Executive Council Member or any person aggrieved, in a summary manner, to inquire into the professional conduct or any alleged incompetence, negligence, or fraud of a notary public, and may

for cause shown order that a notary public be struck off the roll of notaries public, or be suspended from practising for a period named in the order or make such order as is just.

### **Offence and penalty**

8. Any person who acts as a notary public or holds himself out as qualified to act as a notary public without being qualified and authorized to do so in accordance with the provisions of this Act or in any way contrary to any limitation or condition to which his enrolment or commission is subject, commits an offence, and is liable, upon summary conviction, to a fine not exceeding \$500 or one year's imprisonment or to both fine and imprisonment.

### **Validity of certain acts**

9. No act done by a notary public shall be deemed invalid or ineffectual by reason only of the fact that it is done contrary to any limitation or condition to which his enrolment or commission is subject and nothing in this Act relieves any person acting as a notary public from liability for any loss, damages or costs caused to or incurred by any other person by reason of any act done while so acting.

### **Application of preceding sections**

10. The preceding sections of this Act, except subsections 2(1) and (2), do not apply to lawyers.

### **Right to use title and exercise power of notary public**

11.(1) Every lawyer enrolled under the Legal Profession Act and every notary public qualified under this Act has and may use while so enrolled or qualified the style and title of "notary public in and for the Yukon" and, save as in this Act provided, has and may exercise while so enrolled or qualified the right and power to

- (a) give notarial certificates of his acts,
- (b) attest or protest all commercial instruments brought before him for attestation or public protestation,
- (c) administer oaths, affidavits, affirmations or statutory declarations that may or are required to be administered, sworn, affirmed or made by the law of the Yukon, or of any province, or of Canada, or of any country other than Canada, and
- (d) perform such duties as may be authorized or prescribed by any Act.

(2) No lawyer who is disbarred, disqualified or suspended from practice under any of the provisions of the Legal Profession Act shall, so long as the disbarment, disqualification or suspension continues, act as or use the style and title of a notary public, or have or exercise any of the powers, rights, duties, privileges or emoluments referred to above.

(3) A notary public is entitled to receive the emoluments pertaining to the office of notary public prescribed by the Commissioner in Executive Council.

### **Commission**

12. The Executive Council Member shall upon request, and upon payment of a fee of \$10, issue to every person empowered to act as a notary public by virtue of this Act a commission in the prescribed form, and shall at any time, upon request of any person so

commissioned who has not been struck off the roll and is not suspended from practising, and upon payment of the prescribed fee, give to that person a certificate stating that he is duly commissioned or entitled to act as a notary public under this Act.

**Appeal**

13. An appeal lies to the Court of Appeal from any order or decision of the Supreme Court under this Act.

**Rules**

14. A judge may make rules not inconsistent with this Act and establish forms and fix fees for all proceedings under this Act not fully provided for herein, and may alter, add to, amend or repeal such rules, forms and fees as and when it may seem to him necessary or desirable.

**Government employees**

15. The Commissioner in Executive Council, if satisfied that the appointment of a notary public under this section is necessary in the public interest, may, by a commission, appoint any employee of the Government of the Yukon or the Government of Canada to be a notary public; and an appointment so made may be during pleasure or for such period as the Commissioner in Executive Council may think fit, and the Commissioner in Executive Council may define and limit the area within which a person appointed under this section may practise as a notary public.

**Powers of government notary**

16.(1) An appointment under section 15 shall confer upon the person named power only in connection with his employment, and without fee, to administer oaths, to take affidavits, declarations and acknowledgements, to attest instruments by his seal and to give notarial certificates of his acts.

(2) Every person appointed under this section shall be enrolled by the Executive Council Member.

**Commissioners for oaths in the Yukon**

17. A notary public is ex officio a commissioner for taking oaths in the Yukon, and where the notary public administers oaths or takes affidavits, affirmations or declarations within the Yukon, it is not necessary to their validity that he affix his seal thereto.

**Regulations**

18. The Commissioner in Executive Council may make regulations for carrying out the provisions of this Act.

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# **CHAPTER 123**

## **OCCUPATIONAL HEALTH AND SAFETY ACT**

### **Interpretation**

#### **1. In this Act,**

- “board” means the Occupational Health and Safety Board established under subsection 26(1);
- “chief industrial safety officer” means the safety officer who is, from time to time, designated by the Executive Council Member as the chief industrial safety officer;
- “chief mines safety officer” means the safety officer who is, from time to time, designated by the Executive Council Member as the chief mines safety officer;
- “collective agreement” means an agreement in writing between an employer or an employer’s organization acting on behalf of the employees of the employer in collective bargaining or as a party to an agreement with the employer or employer’s organization, on the other hand, containing terms or conditions of employment of the employees including provisions with reference to rates of pay and hours of work;
- “committee” means a joint health and safety committee established under subsection 12(3) or (4);
- “competent person” means a person who,
- (a) is qualified because of his knowledge, training and experience to organize the work and its performance,
  - (b) is familiar with the provisions of this Act and the regulations that apply to the work, and
  - (c) has knowledge of any potential or actual danger to health or safety in the workplace;
- “construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, land clearing, earth moving, grading, excavating, trenching, digging, boring, drilling, blasting or concreting, and the installation of any machinery;
- “constructor” means a person who undertakes a project for an owner and includes an owner who undertakes all or part of a project by himself or by more than one employer;
- “designated substance” means a biological, chemical or physical agent, or combination thereof, prescribed as a designated substance to which exposure of workers is prohibited, regulated, restricted, limited, or controlled under this Act;
- “director” means the safety officer who is, from time to time, designated by the Executive Council Member as the director of occupational health and safety;
- “employer” means a person who employs one or more workers or who contracts for the services of one or more workers, and includes a contractor or sub-contractor who undertakes with an owner, constructor, contractor or sub-contractor to perform work or supply services;
- “health and safety representative” means a person appointed pursuant to subsection 12(8) or 13(1);

- “occupational illness” means a condition that results from exposure in a workplace to a physical, chemical or biological agent to the extent that the normal physiological mechanisms are affected and the health of the worker is impaired thereby, and includes an industrial disease as defined by the Workers Compensation Act;
- “owner” includes a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of any lands or premises used or to be used as a workplace, and a person who acts for or on behalf of an owner as his agent or delegate;
- “project” means a construction project whether, public or private, including
- (a) the construction of a building, bridge, structure, industrial establishment, mining plant, shaft, tunnel, caisson, trench, excavation, highway, railway, street, runway, parking lot, cofferdam, conduit, sewer, watermain, service connection, telegraph, telephone or electrical line, tower, pipe line, duct or well, any other similar thing, and any combination thereof,
  - (b) a mining development, and
  - (c) any work or undertaking or any lands or appurtenances used in connection with construction;
- “qualified medical practitioner” means a person entitled to engage in the practice of medicine under the laws of a province;
- “safety officer” means an industrial health and safety officer or a mines health and safety officer designated under this Act, and includes the chief industrial safety officer, the chief mines safety officer and the director of occupational health and safety;
- “self-employed person” means a person who is engaged in an occupation but is not in the service of an employer;
- “supervisor” means a competent person who has charge of a workplace or authority over a worker;
- “supplier” includes any person, other than a vendor who does not have title, who provides, erects or installs any tools, appliances or equipment, whether owned by him or not, to be used by a worker in respect of any occupation, project or work site;
- “trade union” includes an organization of employees formed for purposes that include regulating relations between employers and employees;
- “worker” means a person who performs services for an employer under an express or implied contract of employment or apprenticeship, and includes
- (a) any person engaged in training for mine rescue work and any person who is doing rescue work at a mine after an accident, and
  - (b) the employees of a contractor who is engaged in operations under a contract he has with another person.

**Application of the Act**

2.(1) This Act applies to and in respect of employment upon or in connection with the operation of any work, undertaking or business other than a work, undertaking or business that is under the exclusive jurisdiction of the Government of Canada.

(2) This Act does not apply to work performed by the owner or occupant in or about a private residence or the lands and appurtenances used in connection therewith.

(3) The Government of the Yukon shall comply with the safety standards and specifications established by or under this Act.

**DUTIES IN RESPECT OF HEALTH AND SAFETY****Employer's duties**

3.(1) Every employer shall ensure, so far as is reasonably practicable, that

- (a) the workplace, machinery, equipment and processes under his control are safe and without risks to health,
- (b) work techniques and procedures are adopted and used that will prevent or reduce the risk of occupational illness and injury, and
- (c) workers are given necessary instruction and training and are adequately supervised, taking into account the nature of the work and the abilities of the workers.

(2) Without limiting the generality of subsection (1), every employer shall, so far as is reasonably practicable,

- (a) ensure that workers are made aware of any hazard in the work and in the handling, storage, use, disposal and transport of any article, device or equipment, or of a biological, chemical or physical agent,
- (b) cooperate with and assist safety and health representatives and committee members in the performance of their duties,
- (c) ensure that workers are informed of their rights, responsibilities and duties under this Act, and
- (d) make reasonable efforts to check the well-being of a worker where the worker is employed under conditions that present a significant hazard of disabling injury, or when the worker might not be able to secure assistance in the event of injury or other misfortune.

**Constructor's duties**

4. Every constructor shall ensure, so far as is reasonably practicable, that during the course of each project he undertakes

- (a) the measures and procedures prescribed by this Act and the regulations are carried out on the project,
- (b) every employer and every person working on the project complies with this Act and the regulations, and
- (c) the health and safety of workers on the project is protected.

**Joint duties of employers**

5. Where there is an overlapping of the work areas of two or more employers, the principal contractor or, if there is no principal contractor, the owner of the project shall establish and ensure the continuing function of a management group to coordinate the accident prevention activities of the several employers, and each employer shall be represented in and shall cooperate with the management group.

**Owner's duties**

6.(1) The owner of a workplace that is not a project shall ensure, so far as is reasonably practicable, that

- (a) such facilities as may be prescribed are provided and maintained,
- (b) the workplace complies with the regulations, and
- (c) no workplace is constructed, developed, reconstructed, altered or added to except in compliance with this Act and the regulations.

(2) An employer, owner or constructor engaged in any construction, development, alteration, addition or installation to or in a workplace shall, where drawings are required for the construction, keep a copy of the drawings in a convenient location at or near the workplace, and such drawings shall be produced forthwith by the employer, owner or contractor upon the request of a safety officer for examination and inspection.

**Supervisor's duties**

7. A supervisor shall be responsible for

- (a) the proper instruction of workers under his direction and control and for ensuring that their work is performed without undue risk,
- (b) ensuring that a worker uses or wears the equipment, protective devices, or clothing required under this Act or by the nature of the work,
- (c) advising a worker of the existence of any potential or actual danger to the health or safety of the worker of which the supervisor is aware, and
- (d) where so prescribed, providing a worker with written instructions as to the measures and procedures to be taken for the protection of the worker.

**Supplier's duties**

8. A supplier who supplies any machine, device, tool or equipment for use in or about a workplace shall ensure that the machine, device, tool or equipment complies with this Act and the regulations, that it is in good condition and, if it is his contractual responsibility to do so, that the machine, device, tool or equipment is maintained in good condition.

**Employee's duties**

9. Every worker shall, so far as is reasonably practicable, in the course of his employment

- (a) take all necessary precautions to ensure his own health and safety and that of any other person in the workplace,
- (b) at all appropriate times use the safety devices and wear the safety clothing or equipment provided by the employer or required under this Act to be used or worn,
- (c) comply with health and safety procedures and with instructions given for his own or any other person's health or safety by a person having authority over him,
- (d) report forthwith to his immediate supervisor any situation which he has reason to believe would present a hazard and which he cannot correct, and
- (e) report any accident or injury that arises in the course of or in connection with his work.

**Self-employed person's duties**

10. Every self-employed person shall, so far as is reasonably practicable,

- (a) take all necessary precautions to ensure his own health and safety and that of any other person in the workplace,
- (b) at all appropriate times use the safety devices and wear the safety clothing or equipment required under this Act to be used or worn,
- (c) comply with health and safety procedures and with instructions given for his own or any other person's health or safety by a person having authority over him, and

- (d) report forthwith to the person or an agent of the person who engaged him for the work he is doing
  - (i) any situation which he has reason to believe would present a hazard and which he cannot correct, and
  - (ii) any accident or injury that arises in the course of or in connection with his work.

### **Creation of hazards**

11.(1) No person shall engage in any improper activity or behaviour that might create or constitute a hazard to himself or any other worker.

(2) For the purposes of subsection (1), improper activity or behaviour includes horseplay, scuffling, fighting, practical jokes, unnecessary running or jumping, or similar conduct.

## **SAFETY COMMITTEES, REPRESENTATIVES AND OFFICERS**

### **Workplaces having 20 or more employees**

12.(1) Where 20 or more workers are regularly employed at a workplace that is classified under the regulations as an "A" or "B" hazard, the employer shall initiate and maintain an occupational health and safety program.

(2) Notwithstanding subsection (1), the chief industrial safety officer or the chief mines safety officer may, in writing, require a constructor or an employer to initiate and maintain an occupational health and safety program.

(3) Where 20 or more workers are regularly employed at a workplace for a period exceeding one month, the employer shall cause a joint health and safety committee to be established, unless the chief industrial safety officer or the chief mines safety officer is satisfied that a safety program in which the workers participate is maintained at the workplace and that the program protects the health and safety of the workers as well or better than a committee established under this section.

(4) Notwithstanding subsection (3) the chief industrial safety officer or the Chief Mines Officer may, by order in writing, require a constructor or an employer to establish and maintain one or more joint health and safety committees for a workplace and may, in the order, provide for the composition, practices and procedures of any committees so established.

(5) In exercising any power conferred by subsection (2), (3), or (4), the chief officer shall consider

- (a) the nature of the work being done,
- (b) the request of a group of workers or trade union representing the workers in the workplace,
- (c) the frequency of occupational injury or illness in the workplace or in the industry of which the constructor or employer is a part,
- (d) the effectiveness of any health and safety programs that exist in the workplace, and
- (e) such other relevant matters as he considers advisable.

(6) A committee shall consist of a minimum of four and a maximum of 12 persons of whom at least half shall be workers who do not exercise managerial functions and shall be selected by the workers they represent or by the trade union, if any, that represents the workers.

(7) Committees shall have two co-chairpersons, one chosen by the employer members, the other chosen by the worker members, and the co-chairpersons shall alternate the function of chairing the meetings of the committee and shall participate fully in the deliberations and decisions of the committee.

(8) Where a committee has been established under this section, the employer shall cause the workers to select at least one health and safety representative who is from among the workers selected for the committee and who does not exercise managerial or supervisory functions.

(9) Each committee shall

- (a) identify situations that may be a source of danger or hazard to workers,
- (b) investigate and deal with complaints relating to health and safety of workers represented by the committee,
- (c) develop and promote programs, measures, and procedures for the protection of health and safety and for the education and training of workers represented by the committee,
- (d) make recommendations to the constructor or employer and to the workers for the improvement of the health and safety of workers,
- (e) review all accident investigation reports and participate in investigations into accidents that result in or have high potential for serious or fatal injuries,
- (f) inquire into matters pertaining to health and safety including consultation with persons who are technically qualified to advise the committee on such matters, and
- (g) obtain from the constructor or employer such information respecting existing or potential hazards with respect to materials, processes or equipment as is possessed by or might be reasonably obtained by the constructor or employer.

(10) Every committee shall keep minutes of its meetings and records of the disposition of all matters that come before it.

(11) Every committee shall meet during regular working hours at least once every month, and where meetings are urgently required as a result of an emergency or other special circumstances, the committee shall meet as required whether or not during regular working hours.

(12) A member of the committee is entitled to such time from work as is necessary to attend meetings or to carry out any other functions as a member of the committee, and any time spent by the member of the committee shall, for the purpose of calculating wages owing, be deemed to have been spent at work.

(13) Any committee of a like nature to a committee established under this section in existence at the workplace under the provision of a collective agreement or other agreement between a constructor or an employer and the workers has, in addition to its functions and

powers under the provisions of the agreement, the functions and powers conferred upon a committee by this section.

### **Workplaces having less than 20 employees**

13.(1) Where no committee has been established under section 12 or where the number of workers at a project does not regularly exceed 20, the chief industrial safety officer or the chief mines safety officer may, by order in writing, require an employer to cause the selection of one or more health and safety representatives for a workplace who do not exercise managerial functions and may specify the qualifications of such representatives.

(2) The chief industrial safety officer may from time to time give such directions as he considers necessary concerning the carrying out of the functions of a health and safety representative.

(3) The selection of a health and safety representative shall be made by those workers who do not exercise managerial or supervisory functions and who will be represented by the health and safety representative in the workplace.

(4) A health and safety representative may

- (a) inspect the physical condition of the workplace or part thereof for which he has been selected once each month or at such intervals as the chief industrial safety officer or chief mines safety officer may direct, and
- (b) observe and where qualified to do so, assist in or conduct tests for noise, lighting and designated substances or agents in the workplace or part thereof for which he has been selected.

(5) The employer and the workers shall provide to the health and safety representative such information and assistance as he may need for the purpose of carrying out the inspection or tests referred to in subsection (4).

(6) A health and safety representative shall identify situations that may be hazardous to workers and shall report such situations to the employer and to the workers or the trade union or unions, if any, representing the workers.

(7) Where a person is fatally or critically injured at a workplace from any cause, the health and safety representative may accompany a safety officer during an investigation of the place where the accident occurred.

(8) A health and safety representative is entitled to take such time from work as is necessary to carry out the duties specified in subsections (4), (5), (6), and (7) and any time spent shall, for the purpose of calculating wages owing, be deemed to have been spent at work.

(9) A health and safety representative shall keep records of all matters dealt with and shall make such records available to the employer or constructor and a safety officer on request.

(10) A health and safety representative may appeal to the chief industrial safety officer or the chief mines safety officer to resolve any differences of opinion with the employer concerning health and safety matters and the decision of the Chief Officer shall be final.

**HAZARDOUS WORK**

**Refusal by employee**

14.(1) A worker may refuse to work or do particular work where the worker has reason to believe that

- (a) the use or operation of a machine, device, or thing constitutes an undue hazard to that worker or any other person, or
- (b) a condition exists in the workplace that constitutes an undue hazard.

(2) A worker who refuses to work or do particular work shall forthwith report the circumstances of the matter to his employer or supervisor who shall forthwith investigate the situation reported in the presence of the worker and in the presence of

- (a) the committee, if any,
- (b) a health and safety representative, if any, who represents the worker, or
- (c) a worker selected by the employee, who shall be made available and shall attend without delay.

(3) After the investigation referred to in subsection (2) and any action taken to remove the hazard, the worker may again refuse to work or do particular work because of that hazard where he has reasonable cause to believe that

- (a) the use or operation of the machine, device or thing continues to constitute an undue hazard to him or to any other person, or
- (b) the condition of the workplace continues to constitute an undue hazard.

(4) A worker who refuses under subsection (3) to work or do particular work shall forthwith report the circumstances of the matter to his employer or supervisor and the employer or supervisor shall then forthwith report the circumstances of the matter to a safety officer.

(5) No worker may exercise his right under subsection (1) or (3) if his refusal to perform the work puts the life, health, safety or physical well-being of another person in immediate danger or if the conditions under which the work is to be performed are ordinary conditions in that kind of work.

**Investigation by safety officer**

15.(1) Upon receiving a report under subsection 14(4) about a worker's refusal to work, a safety officer shall forthwith investigate or cause another safety officer to investigate the matter.

(2) On completion of an investigation made pursuant to subsection (1) the safety officer shall decide whether or not the machine, device or thing, or workplace or part thereof constitutes an undue hazard to the worker or another person.

(3) The safety officer shall give his decision in writing as soon as is practicable to the employer, the worker and the worker's representative.

(4) Pending the investigation and decision by the safety officer, the worker shall remain at a safe place near his work station during his normal working hours unless the employer, subject to the provisions of a collective agreement, if any, assigns the worker reasonable alternative work during such hours.



(5) Pending the investigation and decision of the safety officer, no worker shall be assigned to use or operate the machine, device or thing or to work in the workplace or the part thereof that is being investigated, unless the worker to be so assigned has been advised of the other worker's refusal and the reason for it.

(6) The time spent by a person pursuant to subsection (4) shall be deemed to be work time for which the person shall be paid by the employer at that person's regular or premium rate as may be the case.

(7) The employer may, within 10 days following the final decision, dismiss, suspend or transfer a worker or impose a disciplinary measure, if the final decision indicates that the worker abused his right.

### **Appeal to the director**

16. Notwithstanding subsection 29(2), an appeal against a decision or an order of a safety officer under section 15 must be delivered to the director within seven days after the date of the decision or order.

## **PROHIBITED REPRISALS**

### **Action against employee**

17.(1) No employer or trade union or person acting on behalf of an employer or trade union shall

- (a) dismiss or threaten to dismiss a worker,
- (b) discipline or suspend or threaten to discipline or suspend a worker,
- (c) impose any penalty upon a worker,
- (d) intimidate or coerce or attempt to intimidate or coerce a worker or a member of the worker's family, or
- (e) take any discriminatory action against an employee

because the worker has acted in compliance with this Act or the regulations or an order made thereunder or has in good faith sought enforcement of this Act or the regulations.

(2) Where an employer or trade union or person acting on behalf of an employer or trade union is convicted of a contravention of subsection (1), the convicting court may order

- (a) the employer or trade union or a person acting on behalf of an employer or trade union to cease the conduct that is in contravention, if that conduct is continuing, and to reinstate the worker to his former employment under the same terms and conditions under which he was formerly employed,
- (b) the employer to pay to the worker any wages the worker was deprived of by the contravention, and
- (c) the employer or the trade union, as the case may be, to remove any reprimand or other reference to the matter in the employer's or trade union's records on the worker's conduct.

## ADMINISTRATION

### Director of occupational health and safety

**18.(1)** The Executive Council Member shall designate a member of the public service as director of occupational health and safety to administer this Act.

(2) The director shall have all of the powers of a chief industrial safety officer and a chief mines safety officer and, subject to the authority of the deputy head, the director shall have supervision of the administration and enforcement of this Act.

### Safety officers

**19.** The deputy head of the department responsible for the administration of this Act shall designate persons in the public service as chief industrial safety officer, chief mines safety officer and safety officers to administer and enforce this Act under the supervision of the deputy head and the director.

### Certificate of authority

**20.** A safety officer shall be supplied by the Executive Council Member with a certificate of his authority, and on entering any workplace shall, if so requested, produce the certificate to the person in charge of that workplace.

### Agreements with other governments

**21.(1)** The Executive Council Member may enter into agreements with any federal or provincial government department or agency specifying terms and conditions under which a person employed by that federal department or agency or province or provincial body may act as a safety officer for the purposes of this Act.

(2) The Executive Council Member may enter into agreements with any federal or provincial government department or agency specifying the terms and conditions under which testing laboratories may be approved as testing laboratories under this Act.

### Research

**22.(1)** The Executive Council Member may conduct research into the cause and prevention of occupational injury and illness and may undertake such research in cooperation with any federal government department or agency, with any province or with any organization undertaking similar research.

(2) The Executive Council Member may publish the results of such research undertaken pursuant to this section and may compile, prepare and disseminate data or information bearing upon health and safety whether obtained from such research or otherwise.

### Health and safety programs

**23.** The Executive Council Member may undertake programs to reduce or prevent occupational injury and illness and may undertake such programs in cooperation with any federal department or agency, with any province or with any organization undertaking similar programs.

**Codes of practice**

24.(1) The Executive Council Member may approve and issue such codes of practice as are suitable in his opinion to provide practical guidance with respect to the requirements of any provisions of the regulations.

(2) Where a code or practice is approved by the Executive Council Member, he shall cause the code to be filed and published under the Regulations Act in the same way as if the code were a regulations.

(3) The provisions of an approved code of practice do not have the force of law and the failure by any person to observe any provision of an approved code of practice is not of itself an offence.

(4) Where a person is charged with a breach of any provision of the regulations in respect of which the Executive Council Member has issued a code or practice, that code is admissible as evidence in a prosecution for the violation of the provision of the regulations.

(5) Upon application in writing to him, the Executive Council Member may, after consultation with other interested parties, vary or revoke any provision or standard of the code of practice in respect of and to meet the special circumstances of a particular case, if the health and safety of any worker is not jeopardized.

**OCCUPATIONAL HEALTH AND SAFETY BOARD**

**Board established**

25.(1) There shall be a board to be called the Occupational Health and Safety Board.

(2) The board shall be composed of the following five members who are to be appointed by the Executive Council Member:

- (a) a chairperson;
- (b) two members who are representative of employers;
- (c) two members who are representative of employees.

(3) The term of the members of the board shall not exceed three years or such lesser term as the Executive Council Member may specify at the time of appointment, and members are eligible for re-appointment.

(4) A member of the board may be paid such remuneration as may be prescribed and transportation, accommodation and living expenses incurred in connection with the performance of his duties as a member of the board away from his ordinary place of residence but, except as otherwise provided by the regulations, the payment of such expenses shall conform as nearly as possible in all respects to the payment of such expenses for members of the public service of the Yukon.

(5) The Executive Council Member may appoint one or more vice-chairpersons from among the members of the board, who may act in the place of the chairperson during his absence.

**Panels of the board**

26.(1) The chairperson of the board may establish a panel consisting of one or more members of the board.

(2) Where the chairperson of the board refers a matter to a panel, the panel has all the power and authority of the board in respect of that matter.

**Board decisions**

27.(1) A quorum of the board or of a panel is a majority of its members.

(2) Subject to subsection (1), a decision of a majority of the members present at a meeting of the board or panel is a decision of the board or panel, but in the event of an evenly divided opinion between members of the board or panel, including the vote of the chairperson, the matter shall be decided in accordance with the vote of the chairperson.

**Resignation of board member**

28. Where a member of the board resigns or his appointment terminates, he may, in relation to a proceeding in which he participated as a member of the board and until the proceeding is completed, carry out and complete the duties or responsibilities and continue to exercise the powers that he would have had if he had not ceased to be a member.

**Appeals to the board**

29.(1) Any person aggrieved or any trade union representing a worker aggrieved by a decision or an order given by the director, a chief officer or a safety officer or the refusal of the director, a chief officer or a safety officer to give an order under the Act or the regulations, may appeal to the board.

(2) An appeal must be in writing and delivered to the director within 14 days after the date of the direction or decision of the director, chief officer or safety officer.

(3) Where the director receives an appeal pursuant to subsection (2) he shall forward the appeal forthwith to the board.

(4) The board may deny or allow the appeal in whole or in part and may make any order that it considers the director, chief officer, or safety officer ought to have made.

(5) Where an appeal is commenced under subsection (1), the commencement of that appeal does not by itself operate as a stay of the order or direction being appealed, but the board may grant such a stay, in whole or in part and on such conditions as are just, pending the disposition of the appeal.

(6) For the purposes of this Act, the board and each of its members has the protection, privileges and powers of a board appointed under the Public Inquiries Act.

**Inquiry procedure**

30.(1) When a matter comes before the board pursuant to this Act, the board shall bring its inquiry into the matter within 14 days.

(2) The board shall give full opportunity to the parties to a proceeding to present evidence and to make submissions to it and, where the board considers it necessary, it may hold a hearing.

(3) In a proceeding before the board, the parties shall be

- (a) the person alleged to have contravened the Act or against whom an order is sought,
- (b) the complainant, if any,
- (c) the director or his authorized representative, and
- (d) any other person specified by the board.

#### **Effect of board decision**

31.(1) A decision or order of the board or a panel is final and binding.

(2) Notwithstanding subsection (1), the board may on its own motion reconsider any decision or order made by it or a panel and may vary or revoke the decision or order at any time within 14 days after the day on which the decision or order was made.

#### **Advisory functions of the board**

32. In addition to the functions and duties conferred on it by this Act, the board shall advise the Executive Council Member with respect to any matter within the purview of this Act that he wishes to refer to it.

## **INJURIES AND ACCIDENTS**

#### **Report and investigation**

33.(1) In this section,

“serious injury” means

- (a) an injury that results in death,
- (b) fracture of a major bone, including the skull, the spine, the pelvis, or the thighbone,
- (c) amputation other than of a finger or toe,
- (d) loss of sight of an eye,
- (e) internal bleeding,
- (f) third degree burns,
- (g) dysfunction that results from concussion, electrical contact, lack of oxygen, or poisoning, or
- (h) an injury that results in paralysis (permanent loss of function);

“serious accident” means

- (a) an uncontrolled explosion,
- (b) failure of a safety device on a hoist, hoist mechanism or hoist rope,
- (c) collapse or upset of a crane,
- (d) collapse or failure of a load-bearing component of a building or structure regardless of whether the building or structure is complete or under construction,
- (e) collapse or failure of a temporary support structure,
- (f) an inrush of water in an underground working,
- (g) fire or explosion in an underground working,

- (h) collapse or cave-in, of a trench, excavation wall, underground working, or stockpile,
- (i) accidental release of a designated substance,
- (j) brake failure on mobile equipment that causes a runaway.

(2) Where a serious injury or a serious accident takes place at or upon any work, undertaking or business, the employer or person responsible for that place of work, undertaking or business shall immediately, or as soon as reasonably practicable, give notice to a safety officer, or the office of a safety officer, of the injury or accident.

(3) No person may, except as insofar as is necessary for the purpose of saving life or relieving suffering and protecting property that is endangered as a result of the accident, interfere with anything connected with a serious injury or a serious accident until a safety officer or a member of the Royal Canadian Mounted Police has completed an investigation into the accident or authorizes the interference.

(4) Where a serious injury or a serious accident has not resulted in death, a safety officer may authorize a health and safety representative from the workplace to conduct the investigation on his behalf.

(5) Where no safety officer is available to receive notice from the employer or where, as a result of an inadequacy in the system provided by the Government of the Yukon for communication with a safety officer, the employer is unable to give notice to a safety officer or where a safety officer has advised that an immediate investigation cannot be made, the employer may move or permit to be moved anything at the scene connected with a serious injury or a serious accident, if details of the scene are first recorded by photographs, drawings or other means.

## ENFORCEMENT

### Posting of notices

**34.** The director may require an employer to post and keep posted a notice relating to the administration or enforcement of this Act or the regulations in a conspicuous place where it is most likely to come to the attention of employees, and the employer shall post and keep posted any such notice.

### Inspections and tests

**35.(1)** A safety officer shall

- (a) make such inspections and inquiries and carry out such tests as are necessary to ensure that this Act and the regulations are being complied with, and
- (b) carry out such other duties as may be assigned to safety officers pursuant to this Act.

(2) For the purposes of administering and enforcing this Act, the regulations, or any order made under this Act or the regulations, a safety officer shall conduct such investigations as may be necessary and may

- (a) at any reasonable time, enter any place to which the public is customarily admitted,
- (b) with the consent of an occupant apparently in charge of the premises, enter any other place,

- (c) for his examination, request the production of documents or things that are or may be relevant to his investigation,
- (d) upon giving a receipt therefor, remove from any place documents produced in response to a request under paragraph (c) for the purpose of making copies of them or extracts from them,
- (e) upon giving a receipt therefore, remove from any place any other thing produced in response to a request under paragraph (c) to retain possession of it pending conclusion of the investigation or proceedings under this Act,
- (f) take or remove for purposes of analysis samples of materials and substances used or handled by workers, subject to the employer or his representative being notified of any samples or substances taken or removed for such purpose,
- (g) require that a workplace or part thereof not be disturbed for a reasonable period of time for the purpose of carrying out an examination, investigation or test,
- (h) require that any equipment, machine, device, thing or process be operated or set in motion or that a system or procedure be carried out that may be relevant to an examination, investigation or test,
- (i) require an owner, constructor or employer to provide, at the expense of the owner, constructor or employer, a report bearing the seal and signature of a professional engineer stating
  - (i) the load limits of a floor, roof, temporary work platform, part of a building, structure or temporary work, or
  - (ii) that a floor, roof or temporary work platform is capable of supporting or withstanding the loads being applied to it or likely to be applied to it,
- (j) require an owner of a mine or part thereof to provide, at his expense, a report in writing bearing the seal and signature of a professional engineer stating that the ground stability of the mining methods and the support or rock reinforcement used in the mine or part thereof is such that a worker is not likely to be endangered, and
- (k) require an employer to produce any record of information, or to provide, at the expense of the employer, a report of assessment made by a person possessing such special or expert qualifications as are specified by the safety officer of any process or biological, chemical or physical agents or combination of such agents used or intended to be used in a workplace and the manner of use including
  - (i) the ingredients thereof and their common or generic name or names,
  - (ii) the composition of the properties thereof,
  - (iii) the toxicological effect thereof,
  - (iv) the effect of exposure thereto whether by contact, inhalation or ingestion,
  - (v) the protective measures used or to be used in respect thereof,
  - (vi) the emergency measures used or to be used to deal with exposure thereto, and
  - (vii) the effect of the use, transport and disposal thereof.

(3) Where a safety officer removes documents under paragraph (2)(d), he shall return them within 72 hours.

### **Powers of safety officers**

**36.**(1) For the purposes of this Act, a safety officer may at any reasonable time enter upon any property, place or thing used in connection with the operation of a work, undertaking or business, may inspect the same and may for such purposes, question any worker apart from his employer.

(2) For the purpose of carrying out the provisions of this Act or the regulations, a safety officer may be accompanied by a person designated by the safety officer to carry out such examinations and inspections and take such samples as directed by the safety officer.

(3) The person in charge of any workplace and every person employed therein shall give a safety officer all reasonable assistance to enable the safety officer to carry out his duties under this Act.

(4) A safety officer acting under subsection (1) shall not, without the consent of the occupier, enter a place that is being used as a dwelling, except under the authority of a warrant to enter issued under subsection (7).

(5) Where any person who has or may have documents or other things that are or may be relevant to an investigation denies the investigating officer entry to any place, instructs the safety officer to leave any place or impedes or prevents an investigation by a safety officer in a place, the safety officer may apply to a justice of the peace for a warrant to enter under subsection (7).

(6) If a person refuses to comply with a request or demand of a safety officer under section 35 or subsection (3) for production of documents or things, the safety officer may apply to a justice of the peace for an order for the production of the documents or things.

(7) Where a justice of the peace is satisfied by evidence upon oath or affirmation that there are reasonable grounds to believe it is necessary that a place that is being used as a dwelling or to which entry has been denied be entered to investigate any matter under this Act, he may issue in the prescribed form a warrant to enter authorizing entry by any safety officer named in the warrant.

(8) Where a justice of the peace is satisfied by evidence on oath or affirmation that a request or demand under section 35 or subsection (3) for production of a document or thing has been refused and that there are reasonable grounds to believe that production of the document or thing is necessary to investigate any matter under this Act, he may make an order for the production of documents or things in the prescribed form authorizing any safety officer named in the order to seize the documents or things described in the order.

(9) An order under subsection (8) for the production of documents or other things may be included in a warrant to enter issued under subsection (7) or may be made separately from such a warrant.



(10) A warrant issued under subsection (7) and every separate order made under subsection (8) shall name a date on which it expires, which shall be a date not later than 14 days after it is issued or made.

(11) An application for a warrant to enter or for an order for the production of documents or things may be made without notice to any party.

### **Persons accompanying safety officer on inspections**

37.(1) Where a safety officer inspects a workplace the employer shall allow a safety committee member representing workers or a health and safety representative, if any, or a worker selected by a trade union or trade unions, if any, representing workers in that workplace, or where there are none of the above, a worker selected by the workers to represent them, the opportunity to accompany the safety officer during his inspection of a workplace, or any part thereof.

(2) Where there is no safety committee member representing workers, no health and safety representative, or no worker selected under subsection (1) available at the time of the inspection, the safety officer shall endeavour to consult during his inspection with a reasonable number of workers concerning health and safety at their workplace.

(3) Notwithstanding the provisions of subsection (1),

- (a) a safety officer shall not be required to postpone or delay an inspection because a safety committee member, a health and safety representative or a worker representative is not available, and
- (b) a safety officer may refuse permission for a safety committee member, health and safety representative, a worker representative or an employer's representative to accompany him or to participate in an inquiry, survey or test, if in the opinion of the safety officer the presence of such representatives would adversely affect the conduct or integrity of the inquiry, survey or test.

(4) The time spent by a safety committee member, a health and safety representative or a worker's representative in accompanying a safety officer on an inspection shall, for the purpose of calculating wages, be deemed to have been spent at work.

### **Obstruction of officer**

38.(1) No person shall obstruct or hinder a safety officer engaged in carrying out his duties under this Act.

(2) No person shall make a false or misleading statement either orally or in writing to a safety officer engaged in carrying out his duties under this Act.

(3) A person may be required to furnish information pursuant to this Act by a notice to that effect served personally or sent by certified mail addressed to the last known address of the person for whom the notice is intended, and such person shall furnish the information within such reasonable time as is specified in the notice.

**Confidentiality**

**39.(1)** No safety officer or any person designated pursuant to subsection 36(2) shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his duties pursuant to this Act except with the written permission of the Executive Council Member.

(2) No safety officer or any person designated pursuant to subsection 36(2) who is admitted into any place in pursuance of the powers conferred by this Act shall disclose to any person any information obtained by him therein with regard to any process or trade secret except for the purpose of this Act or as required by law.

(3) Except for the purposes of this Act or as required by law, no person shall publish or disclose the results of any particular analysis, examination, testing, inquiry or sampling made or taken by or at the request of a safety officer.

(4) No person to whom any information obtained pursuant to this Act is communicated in confidence

- (a) shall divulge the name of the informant to any person except for the purposes of this Act or as required by law, or
- (b) is competent or compellable to divulge the name of the informant before any court or other tribunal.

**Immunity of board and officers**

**40.** No action or other proceeding for damages lies or shall be instituted against the board, members or the board, a safety officer, a safety representative or a safety committee member for an act or an omission done or omitted in good faith in the execution or intended execution of any power or duty under this Act or the regulations.

**Orders by safety officers**

**41.(1)** In the course of carrying out an inspection, a safety officer may give orders orally or in writing for the carrying out of anything that may be required under this Act or the regulations and may require that the orders be carried out within such reasonable time as he may specify in the order.

(2) An order made under subsection (1) shall indicate the nature of any contravention of this Act or the regulations and where appropriate the location of the contravention.

(3) Any oral order given under subsection (1) shall be confirmed in writing by the safety officer, insofar as it is reasonably practicable to do so, before leaving the workplace.

**Sources of imminent danger**

**42.** Where a safety officer determines that any place, matter, or thing, or any part thereof, in a workplace constitutes a source of imminent danger to the health or safety of persons employed there or in connection with it, the safety officer may give an order in writing to the employer or person in charge to take measures immediately or within a specified time to protect the persons from danger.

**Dangers that cannot be rectified immediately**

**43.(1)** Where a safety officer determines that the imminent danger cannot otherwise be protected against immediately, he may order that the place, matter or thing shall not be used until the orders given under section 42 are complied with, but nothing in this subsection prevents the doing of any work necessary for the proper compliance with the orders given under section 42.

(2) A safety officer who gives an order under subsection (1) shall affix to or near the place, matter or thing, or any part thereof, a notice in the prescribed form and no person except a safety officer shall remove such notice unless authorized by a safety officer.

(3) Where a safety officer gives an order under subsection (1) in respect of any place, matter or thing, the employer or person in charge thereof shall discontinue the use of the place, matter or thing, and no person shall occupy or use the place, matter or thing until the measures directed by the safety officer have been taken.

**Posting of orders and distribution of copies**

**44.** Where a safety officer gives an order in writing or issues a report of an inspection to an employer or person in charge of a workplace, the employer or person in charge shall forthwith cause a copy or copies thereof to be posted in a conspicuous place or places in the workplace where it is likely to come to the attention of the workers and shall furnish a copy of such order or report to the health and safety representative and the committee, if any, and the safety officer shall cause a copy thereof to be furnished to the person who complained of the contravention of this Act or the regulations.

**Medical examination of employees**

**45.(1)** Whenever, as specified by the regulations, the chief industrial safety officer or the chief mines safety officer believes or has reason to believe that, as a result of conditions in the workplace, an employee is or may be affected with an occupational illness, he may, by order in writing, require such employee to undergo medical examination for the purpose of determining whether or not such an employee is affected with an occupational illness.

(2) A medical examination carried out under subsection (1) shall, where practicable, be carried out during the normal working hours of the employee, and the costs shall in all cases be paid by the employer.

(3) Where an employee is examined during his normal working hours, his employer shall not make any deductions of wages or other benefits for the time lost by the employee in going to, attending or returning from a medical examination.

**Reports of doctors**

**46.(1)** Where a qualified medical practitioner has performed a medical examination under subsection 45(1) or attended an employee who became ill or was injured while engaged in his employment, he shall, at the request of the chief industrial safety officer or the chief mines safety officer, provide the chief industrial safety officer or the chief mines safety officer with such medical reports as he requires in relation to the employee attended or examined.

(2) Except for the purposes of this Act or as required by law, no person shall disclose any information obtained in any medical report about an employee made or taken under this Act or the regulations, unless the information is disclosed in a form calculated to prevent the information from being identified with a particular person or case.

### **Offences and penalties**

47.(1) A person who contravenes this Act or the regulations commits an offence and is liable on summary conviction

- (a) for a first offence, to a fine up to \$15,000 and, in the case of a continuing offence, to a further fine of up to \$1,500 for each day during which the offence continues after the first day or part of a day, or to imprisonment for as long as six months, or to both the fine and imprisonment, and
- (b) for a second or subsequent offence, to a fine of up to \$30,000 and, in the case of a continuing offence, to a further fine of up to \$2,500 for each day or part of a day during which the offence continues after the first day, or to imprisonment for as long as 12 months, or to both the fine and imprisonment.

(2) A person who fails to comply with an order made under this Act or the regulations commits an offence and is liable on summary conviction

- (a) for a first offence, to a fine of up to \$20,000 and, in case of a continuing offence, to a further fine of up to \$1,750 for each day during which the offence continues after the first day or part of a day, or to imprisonment for as long as nine months, or to both the fine and imprisonment, and
- (b) for a second or subsequent offence, to a fine of up to \$35,000 and, in the case of a continuing offence, to a further fine of up to \$2,750 for each day during which the offence continues after the first day or part thereof, or to imprisonment for as long as 15 months, or to both the fine and imprisonment.

(3) Notwithstanding subsection (2), a person who fails to comply with an order made under section 43 commits an offence and is liable on summary conviction

- (a) for a first offence, to a fine of up to \$25,000 and, in the case of a continuing offence, to a further fine of up to \$2,000 for each day during which the offence continues after the first day or part of a day, or to imprisonment for as long as 12 months, or to both the fine and imprisonment, and
- (b) for a second or subsequent offence, to a fine of up to \$40,000 and, in the case of a continuing offence, a further fine of up to \$3,000 for each day during which the offence continues after the first day or part thereof, or imprisonment for as long as 18 months, or to both the fine and imprisonment.

(4) Notwithstanding subsection (1), a person who knowingly makes any false statement or knowingly gives false information to a safety officer, a peace officer, a safety committee or a health and safety representative commits an offence and is liable on summary conviction to a fine of up to \$500 or to imprisonment for as long as six months, or to both.

### **Proceedings respecting offences**

48.(1) A prosecution under this Act shall not be commenced after the expiration of one year after the commission of the alleged offence.

(2) No proceeding in respect of any offence under this act or the regulations shall be instituted except by the director.

(3) In any prosecution for an offence under this Act, a copy of an order purporting to have been made under this Act or the regulations and purporting to have been signed by the person authorized by this Act or the regulations to make the order is evidence of the order without proof of the signature or authority of the person by whom it purports to be signed.

### **Injunctions**

**49.** The director may apply to a judge of the Supreme Court for and the judge may grant an injunction enjoining any person from continuing conduct that is in contravention of this Act or the regulations.

### **Orders respecting hazardous substances**

**50.(1)** Where a biological, chemical or physical agent, or combination of such agents, is used or intended to be used in the workplace and its use is likely to endanger the health of a worker or some other person, the director may give notice in writing to the employer ordering that the use, intended use, presence or manner of use be

- (a) stopped,
- (b) limited or restricted in such manner as the director specifies, or
- (c) subject to such conditions regarding administrative control, work practices, engineering control, and worker exposure time limits as the director specifies.

(2) Where the director makes an order to an employer under subsection (1), the order shall

- (a) identify the biological, chemical or physical agent, or combination of such agents, and the manner of use that is the subject matter of the order, and
- (b) state the opinion of the director as to the likelihood of the danger to the health of a worker or other person and the causes that give rise to his opinion.

(3) The employer shall provide a copy of an order made under subsection (1) to the health and safety committee, the health and safety representative and the trade union or trade unions representing workers in that workplace, if any, and shall cause a copy of the order to be posted in a conspicuous place in the workplace.

(4) In making a decision or order under subsection (1), the director shall consider

- (a) the reaction of the agent, combination of agents or by-product to a biological or chemical agent that is known to be a danger to health,
- (b) the quantities of the agent, combination of agents or by-product present, used or intended to be used,
- (c) the length of time of the exposure or exposures,
- (d) the availability of other processes, agents or equipment that can be substituted for the particular use or intended use,
- (e) data regarding the effect of the process or agent on health, and
- (f) any criteria or guide to the exposure of a worker to the biological, chemical, or physical agent, or combination of such agents, that are adopted by a regulation under this Act or that are recommended by a competent authority.

**New hazardous substances**

51.(1) Except for purposes of research and development, no person shall manufacture, distribute or supply for commercial or industrial use in a workplace any new biological or chemical agent or combination of such agents unless he first submits to the director notice in writing of his intention to manufacture, distribute or supply such new agent or combination of such agents.

(2) A biological or chemical agent or combination of such agents is not new solely by reason of the fact that it has not previously been manufactured, distributed or supplied in the Yukon.

(3) The notice submitted under subsection (1) shall include the ingredients of the new agent or combination of agents, their common or generic name or names and the composition and properties thereof.

**Report respecting new hazardous substance**

52. Where the introduction of the new biological or chemical agent or combination of such agents referred to in subsection 51(1) may endanger the health and safety of the workers, the director shall require the manufacturer, distributor or supplier, as the case may be, to provide at the expense of the manufacturer, distributor or supplier, a report or assessment made or to be made by a person possessing such special expert qualifications as are specified by the director, about the agent or combination of agents intended to be manufactured, distributed or supplied indicating the manner of use, including the health effects of exposure, the protective equipment used or to be used, engineering controls to prevent exposure, provisions to be made for emergency exposures, and the effect of use, transport and disposal.

**REGULATIONS****Regulations**

53.(1) The Commissioner in Executive Council may make such regulations in relation to matters within the purview of this Act as he considers necessary to carry the provisions and purposes of this Act into effect.

(2) Without limiting the generality of subsection (1), the Commissioner in Executive Council may make regulations

- (a) designating or defining any industry, workplace, employer or class of workplaces or employers for the purposes of this Act, a part of this Act, or the regulations or any provision thereof;
- (b) exempting any workplace, industry, activity, business, work, trade, occupation, profession, constructor, employer or any class thereof from the application of a regulation or any provision thereof;
- (c) respecting any matter or thing that is required or permitted to be regulated or prescribed under this Act;
- (d) respecting any matter or thing, where a provision of this Act requires that the matter or thing be done, used, carried out or provided as prescribed;
- (e) regulating or prohibiting the installation or use of any machine, device or thing or any class thereof;

- (f) requiring that any equipment, machine, device, article or thing used in a workplace bear the seal of approval of an organization designated by the regulations to test and approve the equipment, machine, device, article or thing, and designating organizations for such purposes;
- (g) respecting the reporting by physicians and others of workers affected by any biological, chemical, or physical agents or combination thereof;
- (h) regulating or prohibiting atmospheric conditions to which any worker may be exposed in a workplace;
- (i) prescribing methods, standards or procedures for determining the amount, concentration or level of any atmospheric condition or any biological, chemical or physical agent, or combination thereof, in a workplace;
- (j) prescribing any biological, chemical or physical agent or combination thereof as a designated substance;
- (k) prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal of any designated substance;
- (l) enabling the director to designate that any part of a project shall be an individual project for the purposes of this Act;
- (m) designating laboratories for the purpose of carrying out and performing sampling, analysis, tests and examinations, and requiring that sampling, analysis, examinations and tests be carried out and performed by a designated laboratory;
- (n) imposing requirements with respect to the testing, labelling or examination of any substance used in a workplace;
- (o) imposing requirements with respect to any matter affecting the conditions in which persons work, including such matters as the structural condition and stability of places of employment, safe means of access to and egress from places of employment, cleanliness, temperature, lighting, ventilation, overcrowding, noise, vibrations, ionizing and other radiations, dust and fumes at places of employment;
- (p) requiring and regulating the establishment, equipping, operation and maintenance of mine rescue stations, and authorizing the Executive Council Member to establish, equip, operate and maintain such stations and to recover some or all of the cost thereof from mine owners by such assessment on mines as may be prescribed;
- (q) imposing requirements with respect to the provision and use in specific circumstances of protective clothing or equipment, including clothing affording protection against the hazards of work and against unusual exposure to the weather;
- (r) imposing requirements with respect to the instruction, training and supervision of workers;
- (s) specifying conditions under which work of a hazardous nature may be performed;
- (t) regulating the use of explosives;
- (u) prescribing or prohibiting procedures, techniques, measures, steps and precautions for carrying out any process or operation;
- (v) restricting the performance of specified functions to persons possessing specified qualifications or experience;

- (w) requiring a person to obtain a permit for the carrying on of any specified activity affecting the health or safety of workers, setting out the terms and conditions of the permit and the fee payable;
  - (x) respecting the suspension, revocation or cancellation of any licence or permit issued under this Act or the regulations;
  - (y) requiring the preparation, maintenance and submission of records, information and reports respecting statistical data pertaining to accidents, accident prevention, safety standards, occupational illness, occupational illness prevention and workplace health standards;
  - (z) respecting standards of transportation and first-aid services for sick or injured workers.
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# CHAPTER 124

## OCCUPATIONAL TRAINING ACT

### **Establishment of programs**

1. The Executive Council Member may establish, organize and promote programs to develop and improve the occupational and other skills of persons.

### **Agreements**

2.(1) The Commissioner in Executive Council may, on behalf of the Government of the Yukon, enter into agreements on behalf of the Government of the Yukon with

- (a) the Government of Canada,
- (b) the government of a province, or
- (c) any municipality, agency, organization, corporation or person,

for the purpose of arranging for or providing for programs, research or services relating to

- (d) occupational or other skills, or
- (e) the improvement of the labour force.

(2) The Executive Council Member is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon pursuant to any agreement entered into pursuant to this section.

### **Power to establish advisory and appellate committees**

3.(1) The Commissioner in Executive Council may establish such boards or committees as he considers necessary to act in an advisory, administrative or appellate capacity in connection with any policy, program, service or other matter provided pursuant to section 1 or 2.

(2) The Commissioner in Executive Council may, with respect to any board or committee established under this section

- (a) appoint or provide for the manner of appointment of its members,
- (b) prescribe the term of office of any member,
- (c) designate a chairperson, vice-chairperson and secretary, and
- (d) authorize, fix and provide for the payment of remuneration and expenses to its members.

(3) A board or committee established pursuant to this section may make rules of procedure, subject to the approval thereof by the Commissioner in Executive Council, governing the calling of meetings, the procedure to be used at and conduct of the meetings, reporting and such other matters as required.

(4) A board or committee established pursuant to this section may exercise such powers and shall perform such duties and functions as the Commissioner in Executive Council may approve, confer or impose upon it.

**Regulations**

4.(1) The Commissioner in Executive Council may make any regulations necessary to carry out the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Commissioner in Executive Council may make regulations

- (a) for the establishment, operation, administration and management of vocational or technical schools;
  - (b) for the registration of students in programs offered pursuant to this Act;
  - (c) prescribing fees to be charged for any matter or service provided pursuant to this Act;
  - (d) providing for correspondence courses and the fees to be charged in connection therewith;
  - (e) concerning programs offered pursuant to this Act;
  - (f) providing for the payment by the Government of the Yukon of expenses or subsistence allowances to students pursuing courses offered pursuant to this Act;
  - (g) establishing eligibility factors or conditions for persons undertaking courses or receiving allowances pursuant to this Act;
  - (h) respecting the provision of accommodation for students undertaking courses or allowances in lieu thereof.
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# CHAPTER 125

## OPTOMETRISTS ACT

### **Interpretation**

#### **1. In this Act,**

“licence” means a valid and subsisting licence issued under this Act to practise optometry in the Yukon;

“optometrist” means a person who is entitled to practise optometry in the Yukon under this Act;

“optometry” means

- (a) the investigation of the functions of the human eye by means of test lenses, test cards, trial frames or other instruments or devices designed for the purpose of such investigation, or
- (b) the prescription or adaption of lenses, prisms or ocular exercises, or the use of orthoptic instruments of any kind for the purpose of improving or correcting the visual function, or for adapting the visual function to the requirements of a special occupation;

“register” means the optometrists register referred to in section 2.

### **Optometrists register**

2. The Executive Council Member shall keep a register, called the optometrists register, and shall enter therein the names, addresses and qualifications of all persons who are, pursuant to this Act, entitled to be registered, and may issue licences to such persons.

### **Qualifications for registration**

3.(1) A person who has not practised as an optometrist in a province or state within the period of two years immediately preceding his application for registration under this Act is entitled to be registered in the register if he has, during that period, graduated from a recognized school of optometry in Canada or passed the United States National Examination.

(2) A person who has practised as an optometrist in a province or state within the period of two years immediately preceding his application for registration under this Act is entitled to be registered in the register if

- (a) he has, at any time, graduated from a recognized school of optometry in Canada or passed the United States National Examination, and
- (b) he produces a certificate or other proof satisfactory to the Executive Council Member that he is in good standing as an optometrist in the province or state in which he practised most recently.

(3) A person who is not entitled to be registered in the register under subsection (1) or (2) may be registered in the register upon production of proof satisfactory to the Executive Council Member that he has qualifications and competence to practice optometry that, in the opinion of the Executive Council Member, are similar to those required under subsection (1) or (2).

(4) Notwithstanding subsections (1), (2) and (3), a person is not entitled to be registered in the register until he has paid the prescribed registration fee.

**Licence fee**

4. Every person who is registered in the register shall send to the Executive Council Member at the time his name is registered in the register and subsequently before March 31 in each year, the prescribed annual licence fee.

**Validity of licences**

5. No licence is valid unless

- (a) the licence fee in respect of the year for which the licence is issued has been paid, and
- (b) the holder of the licence has been registered pursuant to section 2.

**Expiration of licence**

6. A licence expires on March 31 next following the day upon which it comes into force.

**Practice of optometry**

7. No person is entitled to recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising optometry unless he holds a licence under this Act at the time the services are rendered or materials or appliances are provided.

**Use of “doctor”**

8. Notwithstanding any other Act, a person on whom a degree of doctor of optometry, or a degree of similar status, has been lawfully conferred and who is registered in the register is entitled to use the title of “doctor” or its abbreviation in connection with his practice of optometry under this Act.

**Licensee’s right to practise and to recover fees**

9. A person who holds a licence is entitled to practise optometry in the Yukon and to bring an action before a judge for the recovery of reasonable charges for professional aid, advice and visits and the costs of any materials or appliances supplied by him to his patients.

**Limitation of actions for malpractice**

10. No optometrist is liable to an action for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within one year from the day when, in the matter complained of, the professional services terminated.

**Offences and penalties**

11.(1) A person who is not the holder of a licence under this Act and who, in the Yukon,

- (a) publicly or privately for hire, gain or hope of reward practises optometry,
- (b) appends to his name the title of optometrist or any word indicative of such title or used in substitution or abbreviation thereof,
- (c) holds himself out in any way to be a duly qualified optometrist, or
- (d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as an optometrist,

commits an offence.

(2) A person who advertises prices, charges, credit or terms of credit, in respect to eye-glasses, spectacles, lenses or optometric services commits an offence.

(3) A person who commits an offence against this Act is liable upon summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

### **Time for prosecution**

12. In the case of an offence against this Act a complaint shall be made, or the information laid, within one year from the time when the matter of the complaint or information arose.

### **Onus of proof**

13. In a prosecution for an offence against this Act the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid.

### **Removal for non-payment of fees**

14.(1) Subject to subsection (2), the Executive Council Member shall remove from the register the name of a person registered therein who fails to comply with the provisions of this Act with respect to licence fees and the licence issued to that person is invalid until such time as he is again registered in the register.

(2) Where reasons satisfactory to the Executive Council Member are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Executive Council Member may grant an extension for payment of fees before having the name of the person on whose behalf they are paid struck off the register, but he shall in no case grant an extension of time exceeding 60 days.

(3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored to the register if he pays a fee in the prescribed amount in addition to the fee in respect of which his name was removed from the register.

### **Board of inquiry**

15.(1) The Executive Council Member may appoint two or more persons to act as a board of inquiry for the purpose of investigating any complaint made against an optometrist with respect to an alleged contravention of this Act or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of the optometrist.

(2) The board of inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power

- (a) to summon and bring before it any person whose attendance it considers necessary to enable the board properly to inquire into the matter complained of,
- (b) to swear and examine all such persons under oath,
- (c) to compel the production of documents, and
- (d) to do all things necessary to provide a full and proper inquiry.

(3) A board of inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding \$500.

(4) Where the board of inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Executive Council Member out of the deposit for security mentioned in subsection (3) such portion of costs of the inquiry and to the person complained against as it deems advisable, and where the board does not so find or where there is any balance of the deposit remaining the deposit or balance thereof shall be returned to the person who deposited it.

(5) A majority of the members of the board of inquiry is a quorum.

(6) A board of inquiry shall, after investigation of a complaint pursuant to this section, make a finding and immediately report its finding to the Executive Council Member, and where it finds that the person complained against is guilty of a contravention of this Act or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Executive Council Member, recommend that such person be

- (a) reprimanded,
- (b) fined in an amount named by the board, such amount not to exceed \$500,
- (c) struck off the register and his licence cancelled, or
- (d) struck off the register and his licence suspended for a definite period named by the board.

(7) The board of inquiry shall, at the time it sends its report to the Executive Council Member pursuant to subsection (6), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report.

(8) Every person who

- (a) fails, without valid excuse, to attend an inquiry as required under this section,
- (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
- (c) at an inquiry under this section
  - (i) refuses to be sworn or to affirm, or to declare, as the case may be, or
  - (ii) refuses to answer any proper question put to him by the board of inquiry,

commits an offence.

### **Appeal**

**16.(1)** A person against whom a finding has been made by a board of inquiry may, within 30 days after the finding has been made, appeal from such finding to a judge.

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the board of inquiry.

**Executive Council Member powers on recommendation by board**

17.(1) Where an optometrist has been found guilty of a contravention of this Act or of malpractice or of infamous, disgraceful or improper conduct by a board of inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Executive Council Member shall, after receiving the report from the board, impose the penalty recommended by it, and

- (a) in the case of a reprimand, reprimand the optometrist in writing and note the reprimand in the register,
- (b) in the case of a fine, make an order fining the optometrist, which order shall be filed in the Supreme Court and have the same effect as an order of that court,
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the optometrist struck off the register and cancel his licence, and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the optometrist struck off the register and suspend his licence for such time as the board has recommended.

(2) Where a judge on appeal confirms or alters the finding of a board of inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Executive Council Member and carried out by him in the manner provided by subsection (1).

**Application for reinstatement**

18.(1) An optometrist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 17 may

- (a) where he has not taken any appeal from the finding within one year from the date of the finding of the board of inquiry, apply to the Commissioner in Executive Council to have his name restored to the register, or
- (b) where he has appealed from the finding within one year from the date of an order under subsection 16(2), apply to a judge for an order directing the Executive Council Member to have his name restored to the register.

(2) The Commissioner in Executive Council or judge may, upon application under subsection (1), order the Commissioner in Executive Council to reinstate the optometrist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner in Executive Council or judge may decide.

(3) The Executive Council Member shall, upon receiving an order under subsection (2) to do so, reinstate the optometrist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs.

(4) Notwithstanding subsections (2) and (3), a person is not entitled to be reinstated until he has paid the prescribed reinstatement fee in addition to the prescribed registration fee.

**Regulations**

**19.** The Commissioner in Executive Council may make such regulations as he deems necessary for the purpose of carrying into effect the provisions of this Act.

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# CHAPTER 126

## PARKS ACT

### **Interpretation**

#### **1. In this Act,**

- “director” means the director of parks appointed pursuant to section 14;
- “development” means the act of constructing, erecting or placing any building or excavation or other operation on, over or under land or the making of any change in the use or intensity of use of any land, building or premises;
- “historic park” means an area of historic significance which may be used by the public in the re-enactment of an historical event, or a landmark which may be stabilized and restored for public viewing, education or enjoyment, and without limiting any of the foregoing includes parks, sites, reserves or structures of unique natural or cultural heritage;
- “natural environment park” means an area of sufficient size that contains a variety of natural features such as lakes, streams, mountains and forests with the potential to provide a wide range of outdoor recreation opportunities;
- “nature preserve” means an area of sufficient size that contains outstanding natural features such as river canyons, flora, fauna, unique volcanic, erosional or glacial features, hot springs or any other natural area of unique natural significance which should be protected and preserved in an undisturbed state for viewing, interpretation and public enjoyment;
- “park” means a Yukon park established pursuant to this Act;
- “parkway” means a linear area bordering a recreation or historic travel route such as a road, waterway or trail that will be developed and maintained primarily for outdoor recreation activities;
- “park reserve” means an area of unique natural, historic or cultural significance which may be set aside for future parks;
- “recreation park” means an area of sufficient size that is located in proximity to resident population centres or travelling tourist populations which is adaptable to intensive use for specific outdoor recreation activities;
- “wilderness preserve” means an area of sufficient size where natural ecological units such as a mountain range, wildlife range, mountain valley, watershed or combination of such units are protected and preserved in their natural state.

### **Park lands**

**2.** The Executive Council Member may accept, acquire, set apart, appropriate and develop lands and designate such lands for the purposes of this Act.

### **Acquisition of property**

**3.** The Executive Council Member may receive and take from any person by grant, gift, devise, bequest or otherwise, any property, real or personal, or any interest therein, for the purpose of any park.

**Agreements**

4. The Executive Council Member may enter into agreements with any person to establish, develop, maintain or operate a park or any services or facilities within a park.

**Disposal of park lands**

5. The Executive Council Member shall not grant, sell or otherwise dispose of lands or an interest in lands set apart and designated as a park or park reserve unless such designation is revoked.

**Park system**

6.(1) The Commissioner in Executive Council may establish a system of parks to protect unique natural and historic features and to provide for comprehensive outdoor recreational opportunities.

(2) The Commissioner in Executive Council shall determine the purpose and classification of each park prior to establishing it in the system.

(3) Parks shall be classified as

- (a) wilderness preserves,
- (b) nature preserves,
- (c) natural environmental parks,
- (d) recreation parks,
- (e) parkways,
- (f) historic parks, or
- (g) such other classification as may be determined.

**Regulations**

7. The Commissioner in Executive Council may in respect of each class of park prescribe

- (a) the purpose of the park,
- (b) the selection criteria,
- (c) the area requirements,
- (d) the boundary determinants,
- (e) the development restrictions, and
- (f) the management philosophy.

**Limit on development**

8.(1) The Commissioner in Executive Council shall limit development in each park to such development as is consistent with the purpose for which the park was established and is reasonably necessary to provide for public use and enjoyment of the park or the preservation of the park and its facilities.

(2) Notwithstanding subsection (1) the Commissioner in Executive Council may permit development within specified zones in a park created under section 10 where he deems it to be in the best long term economic interest of the Yukon.

**Master plans**

9. Prior to any development in a park the director shall prepare and submit to the Executive Council Member a master plan containing

- (a) a statement as to the purpose and classification of the park,
- (b) a regional information and market analysis,
- (c) an inventory and detailed description of the resources,
- (d) a land use zoning scheme,
- (e) an environmental impact statement and a strategy for development and management policy, and
- (f) a phasing and staffing plan and an estimate of funds required for each development phase.

**Land use zones**

10. The Commissioner in Executive Council may designate areas within parks as land use zones and classify any zone as

- (a) a primitive zone,
- (b) a natural zone,
- (c) a multiple use zone,
- (d) a recreation zone,
- (e) an historic zone, or
- (f) such other zone as may be necessary.

**Site plans**

11. The director shall prepare for each specific development site in a park a site plan containing a detailed and scaled drawing of all roads and facilities proposed to be constructed or developed in the park.

**Advisory committees**

12.(1) The Commissioner in Executive Council may appoint committees or boards to perform such advisory functions as he considers necessary or desirable in connection with the planning and administration of parks, and fix the terms of reference and procedure of such committees or boards.

(2) Members of committees or boards appointed pursuant to subsection (1) may be paid their travel and living expenses while away from their place of residence and may be paid such remuneration as may be fixed by the Commissioner in Executive Council.

**Public opinion**

13. The Executive Council Member may

- (a) arrange for the holding of public meetings or hearings for the purpose of obtaining public participation on proposals to establish a park, and
- (b) consult with representatives of those persons residing in or near the location of a proposed park who may be affected by the establishment of the park.

**Director and officers**

14. The Commissioner in Executive Council may appoint a director of parks and such other park officers as may be required for the administration and management of parks and the enforcement of this Act and the regulations.

**Administration and management**

15. Each park shall be administered and managed in accordance with its purpose and use.

**Facilities and services**

16. The Executive Council Member may, in respect of any park,

- (a) construct, operate or provide outdoor recreational facilities or commercial recreation services described in the master plan for the convenience and benefit of the public, and
- (b) make agreements with persons respecting the establishment or operation of any facilities or services.

**Park use permits**

17. Except as provided in the regulations, no person may engage in or carry on any activity, use, occupancy or development in a park without a park use permit.

**Occupation of park land**

18. The Executive Council Member may in accordance with the master plan issue or grant a lease or a licence of occupation for any park land.

**Searches**

19.(1) A park officer who has reasonable grounds to believe and does believe that an offence has been committed against this Act may search any person, aircraft, vessel, vehicle, tent, dwelling or temporary dwelling in the park or entering or leaving the park.

(2) A park officer may seize any article which he has reasonable grounds to believe and does believe was used in contravention of this Act.

(3) Any article seized pursuant to this section shall be forthwith taken before a justice of the peace.

(4) Upon the conviction of a person for an offence under this Act, the justice before whom the case was heard may declare the forfeiture to the Government of the Yukon of anything seized under this section.

(5) The Executive Council Member may dispose of anything declared forfeited under this section in any way he deems fit and the proceeds thereof shall be deposited to the credit of the Yukon Consolidated Revenue Fund.

(6) Notwithstanding subsection (5), a justice may in any case direct the immediate disposal of any perishable article for the benefit of any charitable institution or needy person.

**Offences**

20.(1) Any person committing an offence under this Act or the regulations will be liable on summary conviction, in the case of an individual, to a fine of not more than \$2,000 or imprisonment for not more than two years, or both, and in the case of a corporation, to a fine of not more than \$25,000.

(2) Where a natural resource or outdoor recreation facility in a park is altered or destroyed in contravention of this Act, the Executive Council Member may cause it to be restored or repaired, and the Executive Council Member may by action recover the cost of the restoration or repair from the person who caused the alteration or destruction of the resource or facility.

(3) Where a natural resource or outdoor recreation facility in a park is altered or destroyed in contravention of this Act in such a manner that it cannot be restored or repaired, the Executive Council Member may by action recover damages for the loss of the resource or facility from the person who caused the alteration or destruction of the resource or facility.

### **Regulations**

**21.(1)** The Commissioner in Executive Council may make such regulations as he deems necessary to carry out the purposes of this Act, and may make regulations

- (a) for the care, preservation, improvement, control and management of parks;
- (b) controlling any use, activity or development in any area of a park in accordance with the master plan and the zone designation of that area;
- (c) governing and controlling the issuance of park use permits and prescribing the fees, rentals or deposits payable for any permit, lease or other right issued;
- (d) prescribing the maximum period of stay in a park;
- (e) concerning architectural standards and the posting of sign boards, advertisements and other notices;
- (f) for the keeping of animals, control of fires and public health and safety;
- (g) prescribing forms;
- (h) regulating public conduct in a park;
- (i) controlling and regulating hunting, fishing, trapping, discharging firearms, cutting of timber, impoundment of water and mineral exploration and extraction;
- (j) regulating and controlling the use of any lands in a park.

**(2)** The Commissioner in Executive Council may make regulations

- (a) establishing campgrounds;
  - (b) controlling the use of campgrounds and activities in campgrounds;
  - (c) requiring and providing for the issuance of permits for the use of campgrounds, subject to the payment of such fees as may be prescribed;
  - (d) governing the supply and use of firewood and other services in campgrounds;
  - (e) providing for any other matter he considers necessary for the operation of campgrounds.
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# CHAPTER 127

## PARTNERSHIP ACT

### Interpretation

#### 1. In this Act,

“business” includes every trade, occupation or profession;

“business name” means the name under which a business is carried on or is to be carried on and includes a firm name; “principal place of business” means the principal premises in the Yukon where the business is carried on or is to be carried on;

“registrar” means the registrar of corporations appointed pursuant to the Business Corporations Act.

### PART 1

#### PARTNERSHIPS GENERALLY

##### NATURE OF PARTNERSHIP

#### Partnership defined

2.(1) Partnership is the relation that subsists between persons carrying on a business in common with a view of profit.

(2) The relation between members of any company or association who constitute a body corporate under any law in force in the Yukon is not a partnership within the meaning of this Act.

#### Rules for determining existence of partnership

3. In determining whether a partnership does or does not exist, regard shall be had to the following rules:

- (a) joint tenancy, tenancy in common, joint property, common property or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof;
- (b) the sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived;
- (c) the receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, does not of itself make him a partner in the business, and in particular
  - (i) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such,

- (ii) a contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such,
- (iii) a person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such,
- (iv) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, if the contract is in writing, and signed by or on behalf of all the parties thereto, and
- (v) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business or liable as such.

#### **Rights of lender or seller for a share of profits**

4. Where a person to whom money has been advanced by way of loan upon a contract mentioned in section 3, or any buyer of a goodwill in consideration of a share of the profits of the business makes an assignment for the benefit of his creditors, enters into an arrangement to pay his creditors less than one hundred cents in the dollar, or dies insolvent, the lender is not entitled to recover anything in respect of his loan, and the seller of the goodwill is not entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied.

#### **Meaning of "firm" and "firm name"**

5. Persons who have entered into partnership with one another are for the purposes of this Act called collectively a firm, and the name under which their business is carried on is called the firm name.

## **PART 2**

### **PARTNERS AND THIRD PARTIES**

#### **RELATIONS OF PARTNERS TO PERSONS DEALING WITH THEM**

##### **Power of partner to bind the firm**

6. Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership, and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the



particular matter, and the person with whom he is dealing either knows that he has no authority or does not know or believe him to be a partner.

#### **Partners bound by act on behalf of firm**

7.(1) An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm, by any authorized person, whether a partner or not, is binding on the firm and all the partners.

(2) This section does not affect any general rule of law relating to the execution of deeds, instruments or documents affecting land or negotiable instruments.

#### **Partner using credit of firm for private purposes**

8. Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound unless he is in fact specially authorized by the other partner or partners, but this section does not affect any personal liability incurred by an individual partner.

#### **Effect of notice that firm will not be bound**

9. Where it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement.

#### **Liability of partner for debts of the firm**

10. Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner, and after his death his estate is also severally liable in the due course of administration, for such debts and obligations so far as they remain unsatisfied, but subject to the prior payment of his separate debts.

#### **Liability of firm for acts of partners**

11. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable to the same extent as the partner so acting or omitting to act.

#### **Misapplication of money or property of firm**

12. In the following cases, namely,

- (a) where one partner acting within the scope of his apparent authority receives the money or property of a third person and misapplies it, and
- (b) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss.

#### **Liability for wrongs, joint and several**

13. Every partner is jointly and severally liable with his co-partners for everything for which the firm becomes liable under either section 11 or 12 while he is a partner therein.

**Improper employment of trust property for partnership purposes**

14.(1) Where a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein.

(2) This section does not affect any liability incurred by any partner by reason of his having notice of a breach of trust.

(3) Nothing in this section prevents trust money from being followed and recovered from the firm if still in its possession or under its control.

**Persons liable for “holding out”**

15.(1) Subject to subsection (2), every one who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to any one who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

(2) Where, after a partner's death, the partnership business is continued in the old firm name, the continued use of that name or the deceased partner's name as part thereof does not itself make his executors or administrators, estate or effects liable for any partnership debts contracted after his death.

**Admissions and representations of partners**

16. An admission or representation made by any partner concerning the partnership affairs, and in the ordinary course of its business, is evidence against the firm.

**Notice to acting partner to be notice to firm**

17. Notice to any partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner.

**Liability of incoming and outgoing partners**

18.(1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either expressed or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted.

**Revocation of continuing guarantee by change in firm**

19. A continuing guarantee given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guarantee was given.

**RELATIONS BETWEEN PARTNERS****Variation by consent of terms of partnership**

20. The mutual rights and duties of partners, whether ascertained by agreement or defined by this Part, may be varied by the consent of all the partners, and such consent may be either express or inferred from a course of dealing.

**Duties of partners to each other**

21.(1) A partner shall act with the utmost fairness and good faith towards the other members of the firm in the business of the firm.

(2) The duties imposed by this section are in addition to, and not in derogation of, any enactment or rule of law or equity relating to the duties or liabilities of partners.

**Partnership property**

22.(1) Subject to subsection (2), all property, rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business are called in this Act partnership property and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

(2) The legal estate or interest in any land that belongs to the partnership shall devolve according to the nature and tenure thereof and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

(3) Where co-owners of an estate or interest in any land, not being itself partnership property, are partners as to profits made by the use of that land or estate and purchase other land or estate out of the profits to be used in like manner, the land or estate so purchased belongs to them in the absence of an agreement to the contrary, not as partners, but as co-owners, for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of the purchase.

**Property bought with partnership money**

23. Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm.

**Land held as partnership property to be treated as personal estate**

24. Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners, including the representatives of a deceased partner, as personal or movable and not real estate.

**Procedure against property for a partner's separate judgment debt**

25.(1) A writ of execution shall not issue against any partnership property except on a judgment against the firm.

(2) The Supreme Court may, on application by summons by any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits, whether already declared or accruing, and of any other money that may be coming to him in respect of the partnership, and direct all accounts and inquiries, and give all other orders and directions that might have been directed or given if the charge had been made in favour of the judgment creditor by the partner, or that the circumstances of the case may require.

(3) The other partner or partners are at liberty at any time to redeem the interest charged, or in case of a sale being directed, to purchase the same.

**Rules as to interests and duties of partners subject to special agreement**

26. The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners, by the following rules:

- (a) all the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm;
- (b) the firm is bound to indemnify every partner in respect of payments made and personal liabilities incurred by him
  - (i) in the ordinary and proper conduct of the business of the firm, or
  - (ii) in or about anything necessarily done for the preservation of the business or property of the firm;
- (c) a partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital that he has agreed to subscribe, is entitled to interest from the date of the payment or advance;
- (d) a partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him;
- (e) every partner may take part in the management of the partnership business;
- (f) no partner is entitled to remuneration for acting in the partnership business;
- (g) no person may be introduced as a partner without the consent of all existing partners;
- (h) any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners;
- (i) the partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may when he thinks fit, have access to and inspect and copy any of them.

**Expulsion of partner**

27. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners and the power is exercised in good faith.

**Retirement from partnership**

28. Where no fixed term has been agreed upon for the duration of the partnership or where a partnership is continued after a fixed term has expired, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners, and where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, is sufficient for this purpose.

**Continuance of partnership for a term**

29.(1) Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term so far as is consistent with the incidents of a partnership at will.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership.

**Duty of disclosure**

30. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives.

**Accountability of partners for private profits**

31.(1) Every partner is bound to account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property, name or business connection.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner.

**Partner competing with firm**

32. Where a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he is bound to account for and pay over to the firm all profits made by him in that business.

**Rights of assignee of share in partnership**

33.(1) An assignment by any partner of his share in the partnership, either absolute or by way of mortgage, encumbrance or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, to require any accounts of the partnership transactions or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee is bound to accept the account of profits agreed to by the partners.

(2) Where a partnership is dissolved, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

(3) The assignee may enforce his rights under subsection (2) against the assigning partner, the other partners or both.

## **DISSOLUTION OF PARTNERSHIP AND ITS CONSEQUENCES**

### **Dissolution by expiration or notice**

34. Subject to any agreement between the partners, a partnership is dissolved,
- (a) where it was entered into for a fixed term, by the expiration of that term,
  - (b) where it was entered into for a single adventure or undertaking, by the termination of that adventure or undertaking, and
  - (c) where it was entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership, and in such case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution or, if no date is so mentioned, as from the date of the communication of the notice.

### **Dissolution by death, assignment in trust or charge for debts**

- 35.(1) On the death, bankruptcy or dissolution of a partner,
- (a) a partnership of two partners is dissolved, and
  - (b) subject to agreement among the partners, a partnership of more than two partners is dissolved as between the bankrupt, dead or dissolved partner and the other partners.

(2) Where the share in the partnership property of a partner is charged under section 25 for the separate debt of the partner, the other partners may, by notice in writing to the partner whose share is charged,

- (a) dissolve the partnership, or
- (b) where there are three or more partners, dissolve the partnership as between the partner whose share is charged and the other partners.

(3) A notice under subsection (2) takes effect at the time specified in the notice or forthwith if no time is specified.

### **Dissolution by illegality of partnership**

36. A partnership is, in every case, dissolved by the happening of any event that makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership.

### **Dissolution by the court**

37.(1) On application by a partner, the Supreme Court may decree a dissolution of the partnership in any of the following cases:

- (a) when a partner is shown to the satisfaction of the Supreme Court to be incapable, because of mental infirmity, of discharging his duties as a partner, in which case the application may be made as well on behalf of that partner by his guardian or next friend or person having title to intervene as by any other partner;

- (b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;
- (c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the Supreme Court, regard being had to the nature of the business, is calculated prejudicially to affect the carrying on of the business;
- (d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;
- (e) when the business of the partnership can only be carried on at a loss;
- (f) whenever in any case circumstances have arisen that, in the opinion of the Supreme Court, render it just and equitable that the partnership be dissolved.

(2) Where there are three or more partners, the partnership may be dissolved or may be dissolved as between the partner whose condition or conduct gave rise to the application and the remaining partners.

#### **Rights of persons dealing with firm against apparent members of firm**

**38.(1)** Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

(2) An advertisement in the Yukon Gazette as to a firm is notice as to persons who had no dealings with the firm before the date of dissolution or change so advertised.

(3) The estate of a partner who dies or who assigns for the benefit of his creditors, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, assignment or retirement respectively.

#### **Rights of partner to give notice of dissolution**

**39.** On the dissolution of a partnership or retirement of a partner any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence.

#### **Continuing authority of partners for purposes of winding up**

**40.(1)** Subject to subsection (2), after the dissolution of a partnership the authority of each partner to bind the firm and the other rights and obligations of the partners continue, notwithstanding the dissolution, so far as may be necessary to wind up the affairs of the partnership and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise.

(2) The firm is in no case bound by the acts of a partner who has become insolvent but this subsection does not affect the liability of any person who has after the insolvency represented himself or knowingly suffered himself to be represented as a partner of the insolvent.

**Rights of partners as to application of partnership property**

41. On the dissolution of a partnership every partner is entitled, as against the other partners in the firm and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm, and for that purpose any partner or his representatives may, on the termination of the partnership, apply to the Supreme Court to wind up the business and affairs of the firm.

**Repayment of premium when partnership prematurely dissolved**

42. Where one partner has paid a premium to another on entering into a partnership for a fixed term and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the Supreme Court may order the repayment of the premium, or of any part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless

- (a) the dissolution is, in the judgment of the Supreme Court, wholly or chiefly due to the misconduct of the partner who paid the premium, or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium.

**Rights when partnership dissolved for fraud or misrepresentation**

43. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled

- (a) to a lien on, or right of retention of, the surplus of the partnership assets after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him,
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities, and
- (c) to be indemnified by the person guilty of the fraud or making the representation, against all the debts and liabilities of the firm.

**Rights of outgoing partner to share in profits made after dissolution**

44.(1) Subject to subsection (2), where any member of a firm has died or otherwise ceased to be a partner and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to any share of the profits made since the dissolution as the Supreme Court may find to be attributable to the use of his share of the partnership assets, or to interest at a fair rate on the amount of his share of the partnership assets.

(2) Where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate as the case may be, is not entitled to any further or other share of profits, but where any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under this section.



**Retiring or deceased partner's share to be a debt**

45. Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death.

**Rules for distribution of assets on final settlement of accounts**

46. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

- (a) losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits;
- (b) the assets of the firm including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:
  - (i) in paying the debts and liabilities of the firm to persons who are not partners therein;
  - (ii) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;
  - (iii) in paying to each partner rateably what is due from the firm to him in respect of capital;

and the ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible.

**PART 3****LIMITED PARTNERSHIPS****Interpretation**

47. In this Part,

“certificate” means a certificate filed under section 50 and includes all amendments made to the certificate;

“partnership agreement” includes all amendments made to the agreement;

“security issuer” means a security issuer as defined in the Securities Act;

“registrar of securities” means the registrar of securities as defined in the Securities Act.

**Application of this Part**

48. The provisions of this Act shall, in the case of limited partnerships, be read subject to this Part.

**Formation of limited partnership**

49.(1) Subject to this Part, a limited partnership may be formed to carry on any business that a partnership without limited partners may carry on.

(2) A limited partnership shall consist of

- (a) one or more persons who are general partners, and
- (b) one or more persons who are limited partners.

**Certificate of limited partnership**

**50.(1)** A limited partnership is formed when there is filed with the registrar a certificate signed by each person who is, upon the formation of the partnership, to be a general partner.

(2) The certificate under subsection (1) shall state

- (a) the business name under which the business of the limited partnership is to be conducted,
- (b) the general nature of the business carried on or intended to be carried on,
- (c) the full name and residence address of each general partner or, in the case of a general partner other than an individual, the name and address in the Yukon,
- (d) the term for which the limited partnership is to exist,
- (e) the aggregate amount of cash and the nature and fair value of any other property to be contributed by all of the limited partners,
- (f) the aggregate amount of any additional contributions agreed to be made by limited partners and the times at which or events on the happening of which the additional contributions are to be made, and
- (g) the basis on which limited partners are to be entitled to share profits or receive other compensation by way of income on their contributions.

(3) Where the partnership agreement contains provisions respecting any of the following matters, the certificate under subsection (1) shall also contain the same provisions respecting,

- (a) the times when contributions of limited partners are to be returned,
- (b) the right of a limited partner to substitute an assignee or contributor in his or her place, and the terms and conditions of the substitution,
- (c) the right to admit additional limited partners,
- (d) the extent to which one or more of the limited partners has greater rights than the others,
- (e) the right of a remaining general partner to continue the business on the bankruptcy, death, retirement, mental incompetence or dissolution of a general partner,
- (f) the right of a limited partner to demand and receive property other than cash in return for his or her contribution, or
- (g) the right of the limited partners or any of them to admit an additional general partner to the partnership or to permit or require a general partner to retire from the partnership.

**One person may be general and limited partner**

**51.(1)** A person may be a general partner and a limited partner at the same time in the same limited partnership.

(2) A person who is at the same time a general partner and a limited partner has the same rights and powers and is subject to the same restrictions as a general partner, but in respect of his contribution as a limited partner he has the rights against the other partners that he would have had if he were not also a general partner.

**Name of limited partnership**

52.(1) The business name of each limited partnership shall end with the words “Limited Partnership” in full or the French language equivalent.

(2) The surname of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname of one of the general partners or the business of the limited partnership has been carried on under that name before the admission of that partner as a limited partner.

(3) The corporate name or a significant part of the corporate name of a limited partner shall not appear in the firm name of a limited partnership unless the business of the limited partnership has been carried on under that name before the admission of the corporate partner as a limited partner.

(4) A limited partner whose surname or corporate name appears in the firm name contrary to subsection (2) or (3) is liable as a general partner to any creditor of the limited partnership who has extended the credit without actual knowledge that the limited partner is not a general partner.

**Registered office**

53.(1) A limited partnership shall have a registered office in the Yukon.

(2) A limited partnership shall keep at its registered office

- (a) a register showing in alphabetical order for each limited partner
  - (i) the full name and last known residence address of each limited partner, and
  - (ii) where the participation by limited partners is defined by percentage interests or by the number of units or other similar rights held by them, the percentage interest or the number and class of units or other rights held,
- (b) a copy of the certificate of limited partnership and each amendment made to it, and
- (c) a copy of the partnership agreement and each amendment made to it.

(3) Subject to subsection (4), the records kept under subsection (2) shall be available for inspection and copying during ordinary business hours at the request of a partner and, in the case of the list of names and addresses of the partners, any other person.

(4) The records kept under subsection (2) by a limited partnership that is a security issuer must be available for inspection and copying during ordinary business hours at the request of any person.

(5) A limited partnership shall give notice in writing to the registrar

- (a) of the location of the registered office at the time the certificate is filed under subsection 50(1), and
- (b) promptly, of every change in the location of the registered office.

**Contributions of limited partners**

54.(1) A limited partner may contribute money and other property to the limited partnership, but not services.

(2) A limited partner's interest in the limited partnership is personal property.

**Position of general partners in limited partnership**

55. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority

- (a) to do an act which makes it impossible to carry on the business of the limited partnership,
- (b) to consent to a judgment against the limited partnership,
- (c) to possess limited partnership property, or dispose of any rights in limited partnership property, for other than a partnership purpose,
- (d) to admit a person as a general partner or admit a person as a limited partner, unless the right to do so is given in the certificate, or
- (e) to continue the business of the limited partnership on the bankruptcy, death, retirement, mental incompetence or dissolution of a general partner, unless the right to do so is given in the certificate.

**Liability of limited partners**

56. Except as provided in this Part, a limited partner is not liable for the obligations of the limited partnership except in respect of the amount of property he contributes or agrees to contribute to the capital of the limited partnership.

**Rights of limited partners**

57.(1) Subject to subsection (2), a limited partner has the same right as a general partner

- (a) to inspect and make copies of or take extracts from the limited partnership books at all times,
- (b) to be given, on demand, true and full information of all things affecting the limited partnership,
- (c) to be given a formal account of partnership affairs whenever circumstances render it just and reasonable, and
- (d) to obtain dissolution and winding up of the limited partnership by court order.

(2) The registrar of securities may exempt a limited partnership that is a security-issuer from obedience to some aspect or the entirety of the rights granted under paragraphs (1)(a) and (b) where the registrar considers that it is in the public interest to do so.

**Share of profits**

58.(1) A limited partner has, subject to this Act and the partnership agreement, the right

- (a) to a share of the profits or other compensation by way of income, and
- (b) to have his contribution to the limited partnership returned.

(2) A limited partner may receive from the limited partnership the share of the profits or the compensation by way of income stipulated for in the certificate if, after payment is made, whether from the property of the limited partnership or that of a general partner, the limited partnership assets exceed all the limited partnership liabilities, excepting liabilities to limited partners on account of their contributions and to general partners.

**Business dealings by partner with partnership**

59.(1) A limited partner may lend money to, borrow money from and transact business with the limited partnership.

(2) Except where the limited partner is also a general partner, a limited partner having a claim against the assets of the limited partnership may receive a proportionate share of the assets along with other creditors.

(3) A person who is at the same time a general partner and a limited partner and who has a claim against the assets of the limited partnership shall not, respecting the claim,

- (a) receive or hold as collateral security, property of the limited partnership, or
- (b) where the assets of the limited partnership at the time of the claim are not sufficient to discharge partnership liabilities to persons who are not general partners or limited partners, receive from a general partner or from the limited partnership a payment, conveyance or release from liability.

**Rights between limited partners**

60.(1) Subject to subsection (2), limited partners, in relation to one another, share in the limited partnership assets in respect of

- (a) their claims
  - (i) for capital, and
  - (ii) for profits or compensation by way of income on their contributions
 in proportion to the respective amounts of their claims, and
- (b) all claims, other than those referred to in paragraph (a), equally.

(2) Where there is more than one limited partner, the partnership agreement may provide that one or more of the limited partners is to have greater rights than the other limited partners as to

- (a) the return of contributions,
- (b) profits or compensation by way of income on their contributions, or
- (c) any other matter.

**Return of limited partner's contribution**

61.(1) A limited partner is not entitled to receive from a general partner or out of the limited partnership property any part of his contribution until

- (a) all liabilities of the limited partnership, excepting liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains sufficient limited partnership property to pay them,
- (b) the consent of all partners is obtained, unless the return of the contribution may be rightfully demanded under subsection (2), and
- (c) the certificate is cancelled or so amended as to reflect the withdrawal or reduction.

(2) Subject to subsection (1), a limited partner may rightfully demand the return of his contribution

- (a) on the dissolution of the limited partnership,
- (b) when the time specified in the certificate for its return has arrived, or
- (c) after he has given six months notice in writing to all other partners, if no time is specified in the certificate either for the return of the contribution or for the dissolution of the limited partnership.

(3) A limited partner has, notwithstanding the nature of his contribution, only the right to demand and receive cash in return for it, unless

- (a) there is a statement to the contrary in the certificate, or
- (b) all the partners consent to some other manner of returning the contribution.

(4) A limited partner is entitled to have the limited partnership and its affairs wound up where

- (a) he rightfully but unsuccessfully demands the return of his contribution, or
- (b) the other liabilities of the limited partnership have not been paid, or the limited partnership property is insufficient for their payment as required by paragraph (1)(a), and the limited partner seeking dissolution would otherwise be entitled to the return of his contribution.

(5) Where one or more partners of a limited partnership apply to have the partnership dissolved and wound up and the court considers that the applicant is entitled to the relief sought, the court may, in addition to any other relief it may give, order on terms it considers appropriate that, instead of dissolution and winding up, the interest in the partnership of each partner making the application be purchased by the partnership.

#### **Limited partner's liability to the partnership**

**62.(1)** A limited partner is liable to the limited partnership

- (a) for the difference, if any, between the amount of his contribution as actually made and the amount stated in the certificate as having been made, and
- (b) for any unpaid contribution which he agreed in the certificate to make in the future at the time and on the conditions, if any, stated in the certificate.

(2) A limited partner holds as trustee for the limited partnership

- (a) specific property stated in the certificate as contributed by him, but which has not in fact been contributed or which has been wrongfully returned, and
- (b) money or other property wrongfully paid or conveyed to him on account of his contribution.

(3) The liabilities of a limited partner as set out in this section may, subject to subsection (4), be waived or compromised, but only with the consent of all partners.

(4) A waiver or compromise agreed to under subsection (3) does not affect the right of a creditor of the limited partnership to enforce a liability arising from credit which was extended or a claim which arose subsequent to the filing of the certificate by which the limited partnership was formed, but before the cancellation or amendment of the certificate by which the waiver or compromise was effected.

(5) Where a limited partner has rightfully received the return, in whole or in part, of the capital of his contribution, he is nevertheless liable to the limited partnership for any sum, not in excess of that return with interest, necessary to discharge the limited partnership's liabilities to all creditors who extended credit or whose claims otherwise arose before the return.

#### **Limited partner's liability to creditors**

**63.** A limited partner is not liable as a general partner unless he takes part in the management of the business.

#### **Admission of additional limited partners**

**64.** An additional limited partner shall not be admitted to a limited partnership except in accordance with the partnership agreement and by entry of his or her name on the register referred to in paragraph 53(2)(a).

#### **Assignment by limited partner**

**65.(1)** A limited partner shall not assign his or her interest, in whole or in part, in the limited partnership unless

- (a) all the limited partners and all the general partners consent or the partnership agreement permits it, and
- (b) the assignment is made in accordance with the terms of the consent or partnership agreement, as the case may be.

(2) An assignee of the interest, in whole or in part, of a limited partner does not become a limited partner in the limited partnership until the assignee's ownership of the assigned interest is entered in the register referred to in paragraph 53(2)(a), and until the assignee's ownership is so entered the assignee has none of the rights of a limited partner exercisable against the partnership or against any of the partners other than the assignor.

(3) Subject to subsection (4), on becoming a limited partner, an assignee acquires the rights and powers and is subject to all the restrictions and liabilities that the assignor had in respect of the assigned interest immediately before the assignment.

(4) On becoming a limited partner, an assignee does not acquire the liabilities of the assignor of which the assignee is unaware and which are not specified in the certificate or in the partnership agreement, as the case may be.

(5) Subject to subsection (6), an assignor is not released from liability under section 62 or 73 or from a liability referred to in subsection (4).

(6) Where an interest, in whole or in part, is assigned and at the time that the assignment is entered under subsection(2) an unpaid contribution in respect of it is not due, and has no due date fixed, the assignee is solely liable for that unpaid contribution.

#### **Dissolution of limited partnership**

**66.** The bankruptcy, retirement, death, mental incompetence or dissolution of a general partner dissolves a limited partnership unless the business is continued by the remaining general partners under a right specified in the certificate, or with the consent of all the remaining partners.

**Death of limited partner**

**67.**(1) The executor or administrator of the estate of a deceased limited partner has all the rights and powers of a limited partner for the purpose of settling the estate of the deceased limited partner, and he has the powers under section 65 that the deceased person held.

(2) The estate of a deceased limited partner is liable for all his liabilities as a limited partner.

**Cancellation of certificate**

**68.** A certificate shall be cancelled when the limited partnership is wound up or no person remains a limited partner in the partnership.

**Amendment of certificate**

**69.**(1) A certificate shall be amended when

- (a) there is a change in the name of the limited partnership or in the amount or character of the contribution of any limited partner not provided for in the certificate,
- (b) a person is added as a general partner,
- (c) a general partner becomes bankrupt, retires, dies, becomes mentally incompetent or is dissolved and the business is continued pursuant to section 66,
- (d) there is a change in the nature of the business of the limited partnership,
- (e) a false or erroneous statement is discovered in the certificate,
- (f) there is a change in the time as stated in the certificate for the dissolution of the limited partnership or for the return of a contribution,
- (g) a time is fixed for the dissolution of the limited partnership or for the return of a contribution, no time having been specified in the certificate, or
- (h) it is necessary to amend the certificate to reflect accurately the partnership agreement as amended from time to time.

(2) An amendment to a certificate with respect to matters referred to in subsection (1) or subsection 50(2) or (3) is not effective until a revised form of certificate incorporating the amendment and certified as correct under subsection (3) of this section is filed with the registrar.

(3) For the purposes of subsection (2), certification as correct or as being a true copy shall be made by

- (a) every general partner who is not withdrawing involuntarily, and
- (b) in the case of an amendment to substitute or add a general partner, the person to be substituted or added.

**Order for cancellation or amendment of certificate**

**70.**(1) Where a person designated by section 69 as being a person who must sign a notice to cancel or amend a certificate refuses to do so, a person desiring the cancellation or amendment may apply to the Supreme Court for an order directing the cancellation or amendment.

(2) On hearing an application brought under subsection (1) the Supreme Court, if it finds that the applicant is entitled to have the notice in question signed, shall by order direct the registrar to record the cancellation or amendment of the certificate as set out in the order.



**Time when cancellation or amendment takes effect**

71. A certificate is cancelled or amended, as the case indicates, when there is filed with and recorded in the office of the registrar

- (a) a notice signed as required by this Part, or
- (b) a certified copy of an order made under section 70.

**Settlement of accounts on dissolution**

72. Where accounts are settled after the dissolution of a limited partnership, the liabilities of the partnership to creditors, excepting liabilities to limited partners on account of their contributions and liabilities to general partners, shall be paid first and then, subject to a statement in the certificate or to subsequent agreement, the other liabilities of the partnership shall be paid in the following order:

- (a) to limited partners in respect of the capital of their contributions;
- (b) to limited partners in respect of their share of the profits and other compensation by way of income on their contributions;
- (c) to general partners other than for capital and profits;
- (d) to general partners in respect of capital;
- (e) to general partners in respect of profits.

**False statements in certificate**

73. Where a certificate contains a false statement a person suffering loss as a result may hold liable as a general partner every party to the certificate who

- (a) knew when he signed the certificate that the statement relied on was false, or
- (b) became aware that it was false subsequent to the time when he signed the certificate, but within a sufficient time before the false statement was relied on to enable him to have the certificate cancelled or amended, and failed to have the certificate cancelled or amended promptly.

**Liability of a person mistakenly believing he is a limited partner**

74. Where a person contributes to the capital of a business conducted by a person or partnership mistakenly believing that he has become a limited partner in a limited partnership and, on ascertaining the mistaken nature of his belief, he promptly renounces his interest in the profits or other compensation by way of income from the business,

- (a) he is not, by exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business, and
- (b) he is not bound by the obligations of the person or partnership carrying on the business.

**Judgment against limited partner**

75.(1) The Supreme Court may, on application by a judgment creditor of a limited partner, charge the interest of the indebted limited partner with payment of the unsatisfied amount of the judgment debt, and may appoint a receiver of that interest and make all other orders, directions and inquiries which the circumstances of the case require.

(2) Property of a limited partnership may not be disposed of in order to obtain the release of a charge created under subsection (1).

(3) The remedies conferred by subsection (1) are additional to others that may exist in law or equity.

**Parties to proceedings**

76. In a legal proceeding against a limited partnership it shall not be necessary to name any of the limited partners.

**Authority to sign**

77.(1) A general or proposed general partner or limited or proposed limited partner may give written authority to a person to execute on his behalf a document under this Part.

(2) Every document executed under an authority referred to in subsection (1) shall be filed with the registrar and a copy of the authority shall be filed with it.

**Partnerships existing on December 1, 1982**

78.(1) A limited partnership in existence on or before December 1, 1982, may become a limited partnership under this Part on registration of a certificate under section 50 where the certificate

- (a) sets out the amount of the original contribution of each limited partner and the time when the contribution was made, and
- (b) states that the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of the limited partners.

(2) A limited partnership in existence on or before December 1, 1982, that does not become a limited partnership under this Part continues to be governed by sections 59 to 77 of the Partnership Act in force before December 1, 1982, and for the purposes of this subsection, those sections are not repealed.

**Limited partnerships formed outside the Yukon**

79.(1) A limited partnership formed outside the Yukon may carry on business in the Yukon if it is registered under this Act.

(2) Where persons form a limited partnership in and under the laws of a place outside the Yukon, the name under which they carry on business shall not be registered unless

- (a) the place is designated by the Commissioner in Executive Council, and
- (b) they file with the registrar, in addition to a declaration in prescribed form,
  - (i) a true copy of the original certificate of limited partnership or equivalent document and of all amendments to it verified by the proper authority of the jurisdiction in which the limited partnership was formed,
  - (ii) evidence to the satisfaction of the registrar that the limited partnership still exists as a limited partnership in the jurisdiction where it was formed,
  - (iii) the full names and residential addresses of the general partners, and
  - (iv) a notice of the location of the registered office required by section 53.

(3) A limited partnership registered under this section has rights and privileges the same as but not greater than, and is subject to the same duties, restrictions, penalties and liabilities as are imposed on, a limited partnership formed under section 50.

## **PART 4 REGISTRATION**

### **Duty of general partnership to file declaration**

**80.**(1) All persons associated in partnership for trading, manufacturing or mining purposes shall cause to be filed with the registrar, a declaration in the prescribed form.

(2) When any of the members are absent from the place where they carry or intend to carry on business at the time of making the declaration, then the declaration shall be signed by the members present in their own names and also for the absent members, under their written authority to that effect, and that written authority shall be at the same time filed with the registrar and annexed to the declaration.

### **Time for filing declaration**

**81.** The declaration shall be filed within two months next after the formation of the firm and shall be accompanied by the prescribed fee.

### **Declaration on change in firm**

**82.**(1) A similar declaration shall in a similar manner be filed when and so often as any change or alteration takes place in the membership of the firm or in the firm name, and every new declaration shall state the alteration in the membership of the firm or in the firm name.

(2) A similar declaration may be filed in a similar manner at any time if a fiat is obtained from a judge.

### **Allegations in declaration not controvertible**

**83.** The allegations made in a declaration required under this Act cannot be controverted by any person who has signed it; nor can they be controverted, as against any person who is not a partner, by any person who, although he did not sign it, was, at the time the declaration was made, a member of the partnership mentioned in the declaration.

### **Failure to make declaration**

**84.** Until a new declaration is made and filed by him or by his partners, or any of them as aforesaid, no signer shall be deemed to have ceased to be a partner, but nothing herein shall exempt from liability any person who, being a partner, fails to declare the same as already provided; and that person may, notwithstanding the omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment is recovered against them, any other partner or partners may be sued jointly or severally in an action on the original cause of action on which the judgment was rendered; nor shall anything in this Part be construed to affect the rights of any partners with regard to each other, except that no declaration as aforesaid shall be controverted by any signer of it.

**Declaration of dissolution**

**85.** On the dissolution of a firm, any or all of the persons who composed the firm may sign a declaration certifying the dissolution of the firm which may be in the prescribed form.

**Actions**

**86.(1)** If any persons are associated as partners for trading, manufacturing or mining purposes and no declaration is filed under this Part with regard to that partnership, then any action which might be brought against all the members of the firm may also be brought against any one or more of them as carrying on or having carried on business jointly with others, without naming those others in the writ or other process, under the name and style of their partnership or firm, and if judgment is recovered against him or them, any other partner or partners may be sued jointly or severally on the original cause of action on which the judgment is rendered.

(2) If the action is founded on any obligation or instrument in writing in which all or any of the partners bound by it are named, then all the partners named in it shall be made parties to the action and a judgment rendered against any member of such existing firm for a firm debt or liability may be executed by process of execution against all and every firm stock, property and effects in the same manner and to the same extent as if the judgment had been rendered against the firm.

**Sole proprietorships**

**87.(1)** Every person who is engaged in business for trading, manufacturing or mining purposes and who is not associated in partnership with any other person or persons, but who uses as his business name some name or designation other than his own name, or who in his business name uses his own name with the addition of "and company" or some other word or phrase indicating a plurality of members in the business, shall file with the registrar within two months after the day when the business name is first used, a declaration in the prescribed form.

(2) A similar declaration may be filed in a similar manner at any time if a fiat is obtained from a judge.

**Names of firms or proprietorships**

**88.(1)** The registrar shall not register a certificate under section 50 or a declaration under section 80 or 87 that contains a business name that is

- (a) identical to that by which another partnership, company, society or association of any kind is registered in the Yukon,
- (b) so similar to the name by which another partnership, company, society or association of any kind is registered in the Yukon as in the opinion of the registrar, to be deceptive, or
- (c) objected to by the registrar for any other reason.

(2) Paragraphs (1)(a) and (b) do not apply where a partnership, company, society or association of any kind registered in the Yukon consents in writing to the use of its name in whole or in part by another partnership, company, society or association.

**Firm index and individual index**

89.(1) The registrar shall keep two indices of the declarations filed under this Act, one to be named the "firm index" and the other the "individual index".

(2) In the firm index the registrar shall cause to be entered in alphabetical order the styles of the respective firms in respect of which declarations have been filed with him and he shall cause to be placed opposite to each entry the names of the persons composing the firm and the date of receipt by him of each declaration.

(3) In the individual index the registrar shall cause to be entered in alphabetical order the names of each of the members of each firm in respect of which a declaration has been filed with him, and he shall cause to be placed opposite to each entry the style of the firm of which the persons are members and the date of receipt by him of each declaration.

**Offence and penalty**

90. Every member of any partnership or other person who is required to register a declaration under this Act and fails to do so commits an offence and is liable on summary conviction to a fine of not more than \$500.

**Rules of equity and common law**

91. The rules of equity and of common law applicable to partnerships continue in force, except so far as they are inconsistent with the express provisions of this Act.

**Regulations**

92. The Commissioner in Executive Council may make regulations

- (a) prescribing the fees to be charged under this Act;
  - (b) prescribing such forms as he may consider necessary for the administration of this Act.
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# **CHAPTER 128**

## **PAWNBROKERS AND SECOND-HAND DEALERS ACT**

### **Interpretation**

1. In this Act, "pawnbroker" means any person who takes or receives by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon.

### **PAWNBROKERS**

#### **Licences**

2.(1) No person shall carry on the business of a pawnbroker within the Yukon unless he is the holder of a valid and subsisting licence issued by the Executive Council Member, and has paid the prescribed fee.

(2) A licence issued by the Executive Council Member pursuant to subsection (1) is valid until March 31 next following the date of issue, but may be renewed from year to year upon payment of the prescribed fee.

#### **Schedule of rates and sign to be posted**

3.(1) Every pawnbroker shall keep posted in a conspicuous place in his shop or place of business a printed or clearly and legibly written schedule of rates authorized by law to be made by such pawnbroker.

(2) Every pawnbroker shall keep and maintain a sign over the entrance to his shop or place of business, on which shall be painted his name in large and legible letters and underneath his name the words "Loan Office".

#### **Records and duplicate entries**

4.(1) Every pawnbroker shall keep a record book in which he shall enter at the time of each loan

- (a) a description of the goods pawned,
- (b) the amount loaned thereon, and
- (c) the name and residence of the pawner.

(2) The pawnbroker shall give a duplicate of the entry made in the record book referred to in subsection (1) to the pawner and such duplicate shall be used to redeem the pawn from the pawnbroker.

(3) The record book shall at all reasonable times within business hours be open to the inspection of a peace officer.

**Sale at public auction**

5.(1) Pawned goods not redeemed within one year from the date of deposit may be sold at public auction by the pawnbroker.

(2) Where any goods are being sold under this section, the pawnbroker shall, at least ten days before such sale, place a notice stating the time and place of such sale in a newspaper published or circulated in the area where the sale is to take place, or post such notice in at least two public places in the area.

(3) The pawnbroker may deduct from the proceeds of the sale of any goods under this section the amount of the loan made on such goods together with accrued interest thereon as well as the costs of the sale, and where any money remains after making such deductions the money shall, upon demand by the person by whom the goods were deposited, be paid to that person in case the demand is made within three years after the sale.

(4) Every pawnbroker shall enter in a book kept by him for that purpose an account of the sale of such goods showing

- (a) the time and place of the sale,
- (b) the name of the pawner,
- (c) the name of the auctioneer,
- (d) the proceeds of the sale, and
- (e) the expenses of the sale,

and the book may be examined by the pawner or his personal representative at any reasonable time.

**Redemption within one year**

6. Goods pawned may be redeemed at any time within one year from the pawning thereof and the pawnbroker shall return the pledge upon payment of principal and interest due thereon.

**Holder deemed owner**

7. The holder of the duplicate entry shall be deemed the owner of the goods pawned, and the pawnbroker shall not be held liable if he delivers the goods to such holder unless he knows that the person presenting the duplicate has obtained the same fraudulently or illegally, or has found it.

**Loss of duplicate entry**

8. If the duplicate entry has been lost and is no longer in the possession of the pawner, the pawner may obtain the goods from the pawnbroker if he presents an affidavit sworn before a commissioner or other person qualified to take oaths stating that the duplicate entry has been lost and that he is still entitled to redeem such goods.

**Prohibition**

9. No pawnbroker shall take goods in pledge from a person who is under 18 years of age knowing him to be so, or from a person apparently under the influence of alcohol.



**SECOND-HAND DEALERS**

**Licences**

10.(1) No person shall carry on the business of second-hand dealer within the Yukon unless he is the holder of a valid and subsisting licence issued by the Executive Council Member, and has paid the prescribed fee.

(2) A licence issued by the Executive Council Member pursuant to subsection (1) is valid until March 31 next following the date of issue, but may be renewed from year to year upon payment of the prescribed fee.

**Record of purchases and sales**

11.(1) Every second-hand dealer shall keep a record of all purchases and sales, together with a brief description of the goods and the price paid or received for them.

(2) The record may be kept either in book form or by retention of counter slips, but if counter slips are used they shall be retained on file for a period of not less than six months.

(3) The record shall at all reasonable times within business hours be open to the inspection of any peace officer.

**GENERAL**

**Offence and penalty**

12. Every person who violates any of the provisions of this Act commits an offence and is liable on summary conviction to a fine not exceeding \$50.

**Regulations**

13. The Commissioner in Executive Council may prescribe the fees to be charged under this Act.

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# CHAPTER 129

## PERPETUITIES ACT

### Interpretation

#### 1. In this Act,

“disposition” includes the conferring of a power of appointment and any provision whereby any interest in property or any right, power or authority over property is disposed of, created or conferred, and also includes a possibility of reverter or resulting trust and a right of re-entry on breach of a condition subsequent;

“in being” means living or en ventre sa mere;

“perpetuity period” means the period within which at common law as modified by this Act an interest must vest;

“power of appointment” includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.

### Rule is continued

2. Except as provided by this Act, the rule of law known as the rule against perpetuities continues to have full effect.

### Vesting beyond period

3. No disposition creating a contingent interest in real or personal property shall be treated as or declared to be void as violating the rule against perpetuities by reason only of the fact that there is a possibility of the interest vesting beyond the perpetuity period.

### “Wait and see” rule

4.(1) Every contingent interest in real or personal property that is capable of vesting within or beyond the perpetuity period is presumptively valid until actual events establish,

- (a) that the interest is incapable of vesting within the perpetuity period, in which case the interest unless validated by the application of section 6, 7 or 8 shall be treated as void or declared to be void, or
- (b) that the interest is incapable of vesting beyond the perpetuity period, in which case the interest shall be treated as valid or declared to be valid.

(2) A disposition conferring a general power of appointment, which but for this section would have been void on the ground that it might become exercisable beyond the perpetuity period, is presumptively valid until such time, if any, as it becomes established by actual events that the power cannot be exercised within the perpetuity period.

(3) A disposition conferring any power other than a general power of appointment, which but for this section would have been void on the ground that it might be exercised beyond the perpetuity period, is presumptively valid and shall be declared or treated as void for remoteness only if, and so far as, the power is not fully exercised within the perpetuity period.

**Determination of period**

5.(1) Where section 4 applies to a disposition and

- (a) where any persons falling within subsection (2) are persons in being and ascertainable at the commencement of the perpetuity period, the duration of the perpetuity period shall be determined by reference to their lives and no others, but so that the lives of any description of persons falling within paragraph (2)(b) or (c) shall be disregarded if the number of persons of that description is such as to render it impractical to ascertain the date of death of the survivor, or
- (b) where there are no lives under paragraph (a), the perpetuity period is 21 years.

(2) The persons referred to in subsection (1) are

- (a) the person by whom the disposition is made,
- (b) a person to whom or in whose favour the disposition was made, that is to say,
  - (i) in the case of a disposition to a class of persons, any member or potential member of the class,
  - (ii) in the case of an individual disposition to a person taking only on certain conditions being satisfied, any person as to whom some of the conditions are satisfied and the remainder may in time be satisfied,
  - (iii) in the case of a special power of appointment exercisable in favour of members of a class, any member or potential member of the class,
  - (iv) where, in the case of a special power of appointment exercisable in favour of one person only, the object of the power is not ascertained at the commencement of the perpetuity period, any person as to whom some of the conditions are satisfied and the remainder may in time be satisfied,
  - (v) in the case of a power of appointment, the person on whom the power is conferred,
- (c) a person having a child or grandchild within clauses (b)(i) to (iv), or such a person any of whose children or grandchildren, if subsequently born, would by virtue of his descent, fall within those clauses,
- (d) any person who takes any prior interest in the property disposed of and any person on whose death a gift over takes effect, and
- (e) where a disposition is made in favour of any spouse of a person who is in being and ascertainable at the commencement of the perpetuity period, or where an interest is created by reference to the death of the spouse of such a person, or by reference to the death of the survivor, the same spouse whether or not he was in being or ascertainable at the commencement of the period.

**Reduction of age**

6.(1) Where a disposition creates an interest in real or personal property by reference to the attainment by any person or persons of a specified age exceeding 21 years and actual events existing at the time the interest was created or at any subsequent time establish

- (a) that the interest but for this section would be void as incapable of vesting within the perpetuity period, but
- (b) that it would not be void if the specified age had been 21 years,

the disposition shall be read as if, instead of referring to the age specified, it had referred to the age nearest the age specified that would, if specified instead, have prevented the interest from being so void.

(2) One age reduction to embrace all potential beneficiaries shall be made pursuant to subsection (1).

(3) Where in the case of any disposition different ages exceeding 21 years are specified in relation to different persons,

- (a) the reference in paragraph (1)(b) to the specified age shall be construed as a reference to all the specified ages, and
- (b) that paragraph operates to reduce each such age so far as is necessary to save the disposition from being void for remoteness.

**Exclusion of class members**

7.(1) Where the inclusion of any persons, being potential members of a class or unborn persons who at birth would become potential members of the class, prevents section 6 from operating to save a disposition from being void for remoteness, those persons shall be excluded from the class for the purposes of the disposition and that section has effect accordingly.

(2) Where, in the case of a disposition to which subsection (1) does not apply, it is apparent at the time the disposition is made, or becomes apparent at a subsequent time that, but for this subsection, the inclusion of any persons being potential members of a class or unborn persons who at birth would become members or potential members of the class, would cause the disposition to be treated as void for remoteness, such persons shall for all the purposes of the disposition be excluded from the class.

**General cy-pres**

8.(1) Where it has become apparent that, apart from the provisions of this section, any disposition would be void solely on the ground that it infringes the rule against perpetuities, and where the general intention originally governing the disposition can be ascertained in accordance with the normal principles of interpretation of instruments and the rules of evidence, the disposition shall, if possible and as far as possible, be reformed so as to give effect to the general intention within the limits of the rule against perpetuities.

(2) Subsection (1) does not apply where the disposition of the property has been settled by a valid compromise.

**Future parenthood**

9.(1) Where in any proceeding respecting the rule against perpetuities a question arises that turns on the ability of a person to have a child at some future time, then it shall be presumed

- (a) that a male is able to have a child at the age of 14 years or over, but not under that age, and
- (b) that a female is able to have a child at the age of 12 years or over, but not under that age or over the age of 55 years,

but in the case of a living person, evidence may be given to show that he will or will not be able to have a child at the time in question.

(2) Subject to subsection (3), where any question is decided in relation to a disposition by treating a person as able or unable to have a child at a particular time, then he shall be so treated for the purpose of any question that may arise concerning the rule against perpetuities in relation to the same disposition notwithstanding that the evidence on which the finding or ability or inability to have a child at a particular time is proved by subsequent events to have been erroneous.

(3) Where a question is decided by treating a person as unable to have a child at a particular time and that person subsequently has a child at that time, the Supreme Court may make such order as it sees fit to protect the right that such child would have had in the property concerned as if such question had not been decided and as if such child would, apart from such decision, have been entitled to a right in the property not in itself invalid by the application of the rule against perpetuities as modified by this Act.

(4) The possibility that a person may at any time have a child by adoption or legitimation shall not be considered in deciding any question that turns on the ability of a person to have a child at some particular time, but if a person does subsequently have a child by such means, then subsection (3) applies to such a child.

**Application to court**

10. An executor or a trustee of any property or any person interested under, or in the validity or invalidity of, an interest in that property may at any time apply for the opinion, advice or direction of the Supreme Court as to the validity or invalidity with respect to the rule against perpetuities of an interest in that property and with respect to the application of any provision of this Act.

**Order of remedies**

11. The remedial provisions of this Act apply in the following order:

- (a) section 9;
- (b) section 4;
- (c) section 6;
- (d) section 7;
- (e) section 8.

**Interim income**

12. Pending the treatment or declaration of a presumptively valid interest within the meaning of section 4 as valid or invalid, the income arising from that interest and not otherwise disposed of shall be treated as income arising from a valid contingent interest, and any uncertainty whether the disposition will ultimately prove to be void for remoteness shall be disregarded.

**Expectant interests and acceleration**

13.(1) A disposition that, if it stood alone, would be valid under the rule against perpetuities is not invalidated by reason only that it is preceded by one or more dispositions that are invalid under the rule against perpetuities, whether or not such disposition expressly or by implication takes effect after, or is subject to, or is ulterior to and dependent upon, any such invalid disposition.

(2) Where a prior interest is invalid under the rule against perpetuities, any subsequent interest that, if it stood alone, would be valid shall not be prevented from being accelerated by reason only of the invalidity of the prior interest.

**Powers of appointment**

14.(1) For the purpose of the rule against perpetuities, a power of appointment shall be treated as a special power unless,

- (a) in the instrument creating the power it is expressed to be exercisable by one person only, and
- (b) it could at all times during its currency when that person is of full age and capacity, be exercised by him so as immediately to transfer to himself the whole of the interest governed by the power without the consent of any other person or compliance with any other condition, not being a formal condition relating only to the mode of exercise of the power.

(2) A power that satisfies the conditions of paragraphs (1)(a) and (b) shall, for the purpose of the rule against perpetuities, be treated as a general power.

(3) For the purpose of determining whether an appointment made under a power of appointment exercisable by will only is void for remoteness, the power shall be treated as a general power where it would have been so treated if exercisable by deed.

**Powers of trustees**

15.(1) The rule against perpetuities does not invalidate a power conferred on trustees or other persons to sell, lease, exchange or otherwise dispose of any property, or to do any other act in the administration, as opposed to the distribution, of any property including, where authorized, payment to trustees or other persons of reasonable remuneration for their services.

(2) Subsection (1) applies for the purpose of enabling a power to be exercised at any time after this Act comes into force, notwithstanding that the power is conferred by an instrument that took effect before that time.

**Avoidance of contracts**

16. Where a disposition inter vivos would be treated as void for remoteness if the rights and duties thereunder were capable of transmission to persons other than the original parties and had been so transmitted, it shall be treated as void as between the person by whom it was made and the person to whom or in whose favour it was made or any successor of his, and no remedy lies in contract or otherwise for giving effect to it or making restitution for its lack of effect.

**Options for reversion and renewal of leases**

17.(1) The rule against perpetuities does not apply to an option to acquire for valuable consideration an interest reversionary on the term of a lease or renewal of a lease, whether the lease or renewal is of real or personal property,

- (a) if the option is exercisable only by the lessee or his successors in title, and
- (b) if it ceases to be exercisable at or before the expiration of one year following the determination of the lease or renewal.

(2) Subsection (1) applies to an agreement for a lease as it applies to a lease, and “lessee” shall be construed accordingly.

(3) Subsection (1) applies to a right of first refusal or pre-emption as it applies to an option.

(4) The rule against perpetuities does not apply to options to renew a lease of real or personal property.

**Commercial transactions**

18.(1) In the case of a contract whereby for valuable consideration an interest in real or personal property may be acquired at a future time, the perpetuity period is 80 years from the date of the contract, and if the contract provides for the acquisition of such an interest at a time greater than 80 years, then the interest may be acquired up to 80 years and not thereafter.

(2) In particular and not so as to restrict the generality of subsection (1), it applies to all contracts relating to a future sale or lease, to options in gross, rights of pre-emption or first refusal, and to future profits a prendre, easements and restrictive covenants.

(3) This section does not apply to any provision in a will or inter vivos trust.

**Determinable interests**

19.(1) In the case of,

- (a) a possibility of reverter on the determination of a determinable fee simple, or
- (b) a possibility of a resulting trust on the determination of any determinable interest in real or personal property,

the rule against perpetuities as modified by this Act applies in relation to the provision causing the interest to be determinable as it would apply if that provision were expressed in the form of a condition subsequent giving rise on its breach to a right of re-entry or an equivalent right in the case of personal property, and where the event that determines the determinable interest does not occur within the perpetuity period the provision shall be treated as void for remoteness and the determinable interest becomes an absolute interest.



(2) The perpetuity period for the purpose of a possibility of reverter or a possibility of a resulting trust or of a right of re-entry on breach of a condition subsequent or equivalent right in personal property is 40 years.

(3) Subsection (1) does not apply where the event which determines the prior interest, or on which the prior interest could be determined, is the cessation of a charitable purpose, but in such a case if the cessation of the charitable purpose takes place after the expiration of the perpetuity period the property shall be treated as if it were the subject of a charitable trust to which the cy-pres doctrine applies.

(4) This section does not apply, nor does the rule against perpetuities apply, to a gift over from one charity to another.

### **Trusts for non-charitable purpose**

**20.(1)** A trust for a specific non-charitable purpose that creates no enforceable equitable interest in a specific person shall be construed as a power to appoint the income or the capital, as the case may be, and unless the trust is created for an illegal purpose or a purpose contrary to public policy the trust is valid so long as and to the extent that it is exercised either by the original trustee or his successor within a period of 21 years, notwithstanding that the disposition creating the trust manifested an intention, either expressly or by implication, that the trust should or might continue for a period in excess of that period, but in the case of such a trust that is expressed to be of perpetual duration, the court may declare the disposition to be void if the court is of opinion that by so doing the result would more closely approximate the intention of the creator of the trust than the period of validity provided by this section.

(2) To the extent that the income or capital of a trust for a specific non-charitable purpose is not fully expended within a period of 21 years, or within any annual or other recurring period within which the disposition creating the trust provided for the expenditure of all or a specified portion of the income or the capital, the person or his successors, who would have been entitled to the property comprised in the trust if the trust had been invalid from the time of its creation, are entitled to such unexpended income or capital.

### **Rule in *Whitby v. Mitchell***

**21.** The rule of law prohibiting the disposition, after a life interest to an unborn person, of an interest in land to the unborn child or other issue of an unborn person is hereby abolished, but without affecting any other rule relating to perpetuities.

### **Employee benefit trusts**

**22.** The rules of law and statutory enactments relating to perpetuities and to accumulations do not apply and shall be deemed never to have applied to the trusts of a plan, trust or fund established for the purpose of providing pensions, retirement allowances, annuities or sickness, death or other benefits to employees, or persons not being employees, engaged in any lawful calling, or to their surviving spouses, dependants or other beneficiaries.

### **Rule binds the Crown**

**23.** This Act and the rule against perpetuities bind the Crown except in respect of dispositions of property made by the Crown.

**Application of Act**

24. Except as provided in subsection 15(2) and section 22, this Act applies only to instruments taking effect after this Act comes into force, and such instruments include an instrument made in the exercise of a general or special power of appointment after this Act comes into force even though the instrument creating the power took effect before this Act comes into force.

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# CHAPTER 130

## PERSONAL PROPERTY SECURITY ACT

### Interpretation

**1.(1)** In this Act,

- “accessions” means goods that are installed in or affixed to other goods;
- “account” means any monetary obligation not evidenced by any chattel paper, an instrument or a security, whether or not it has been earned by performance;
- “building” includes a structure, erection, mine or work built, erected or constructed on or in land;
- “building materials” includes goods that are or become so incorporated or built into a building that their removal would necessarily involve the removal or destruction of some other part of the building and thereby cause substantial damage to the building apart from the value of the goods removed, but does not include
- (a) goods that are severable from the building or land merely by unscrewing, unbelting, unclamping or uncoupling, or by some other method of disconnection, or
  - (b) machinery installed in a building for use in the carrying-on of an activity where the only substantial damage, apart from the value of the machinery removed, that would necessarily be caused to the building in removing the machinery is damage arising from the removal or destruction of the bed or casing on or in which the machinery is set and the making or enlargement of an opening in the walls of the building sufficient for the removal of the machinery;
- “buyer” means a purchaser who takes an interest in property under a transaction that is not intended as security;
- “chattel paper” means one or more writings that evidence both a monetary obligation and a security interest in, or lease of, specific goods or a security interest in, or lease of, specific goods and accessions, but does not include
- (a) a security agreement providing for a security interest in both specific goods and after-acquired goods other than accessions, or
  - (b) a charter party or a lease of a ship;
- “collateral” means personal property that is subject to a security interest;
- “consignment” means an agreement under which goods are delivered to a person who, in the ordinary course of his business, deals in goods of that description for sale, resale or lease, by a person who
- (a) in the ordinary course of his business deals in goods of that description, and
  - (b) reserves a proprietary interest in the goods after they have been delivered,
- but does not include an agreement under which goods are delivered to a person for sale or lease if the person is generally known in the area in which he carries on business to be selling or leasing goods of others;
- “consumer goods” means goods that are used or acquired for use primarily for personal, family or household purposes;

- “creditor” includes an assignee for the benefit of creditors, a trustee in bankruptcy, an executor, an administrator, a committee or a trustee appointed under the Mental Health Act;
- “debtor” means a person who owes payment or other performance of the obligation secured whether or not he owns or has rights in the collateral, and includes
- (a) the consignee under a consignment,
  - (b) the lessee under a lease,
  - (c) the assignor of an account or chattel paper, and
  - (d) the assignee of a debtor’s interest in collateral,
- or such one or more of them as the context requires, but where the debtor and the owner of the collateral are not the same person, the term “debtor” means the owner of the collateral in any provision dealing with collateral and the obligor in any provision dealing with the obligation, and may include both where the context so requires;
- “default” means the failure to pay or otherwise perform the obligation secured when due or the occurrence of any event or set of circumstances whereupon under the terms of a security agreement the security becomes enforceable;
- “document of title” means any writing that purports to be issued by or addressed to a bailee and purports to cover any goods in the bailee’s possession that are identified, or fungible portions of an identified mass, and that, in the ordinary course of business, is treated as establishing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers;
- “equipment” means goods that are not inventory or consumer goods;
- “financial institution” means a bank, credit union, trust company or other institution that accepts deposits of money from its members or the public and includes a branch, agency, or office of such bank, credit union, trust company or institution;
- “financing statement” means a statement required or permitted to be registered under this Act;
- “fixtures” means goods that are installed on or affixed to real property in such a manner or under such circumstances that they would, but for this Act, become in law fixtures to the real property, but does not include building materials;
- “fungible” with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit, but goods or securities that are not fungible shall be deemed to be fungible for the purposes of this Act to the extent that under the security agreement unlike units are treated as equivalent;
- “future advance” means the payment of money, the provision of credit or the giving of value by the secured party pursuant to the terms of a security agreement, whether or not the secured party is obliged to pay the money, advance the credit or give the value, and includes all advances and expenditures made by the secured party for the protection, maintenance, preservation or repair of the collateral;
- “goods” means tangible personal property other than money, and includes fixtures, growing crops and the unborn young of animals, but does not include timber until it is cut, or minerals, gas or oil until they are extracted;
- “indebtedness” means, when used with respect to a lease, obligation secured;
- “instrument” means a bill of exchange, note or cheque within the meaning of the Bills of Exchange Act (Canada), or any other writing that evidences a right to the payment of money and is of a type that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment, but does not include
- (a) a writing that is chattel paper,
  - (b) a document of title, or
  - (c) a security other than a security that is a bill of exchange or note within the meaning of the Bills of Exchange Act (Canada) ;

“intangible” means all personal property, including choses in action, that is not goods, chattel, paper, documents of title, instruments or securities;

“inventory” means goods

- (a) that are held by a person for sale or lease, or that have been leased,
- (b) that are to be furnished or have been furnished under a contract of service, or
- (c) that are raw materials, work in process or materials used or consumed in a business or profession;

“lease for a term of one year or more” includes

- (a) a lease for an indefinite term even though the lease is determinable by one or both parties within one year of its execution,
- (b) a lease for a term of less than one year that is automatically renewable, or is renewable at the option of one of the parties or by agreement for one or more terms, the total of which may equal or exceed one year, and
- (c) a lease initially for a term of less than one year, where the lessee retains uninterrupted or substantially uninterrupted possession of the goods leased for a period in excess of one year after the day he first acquires possession of the goods, and the lease is deemed to be a lease for more than one year as soon as the lessee’s possession extends beyond one year,

but does not include

- (d) a lease transaction involving a lessor who is not regularly engaged in the business of leasing goods, or
- (e) a lease of prescribed goods regardless of the length of the term of the lease;

“money” means a medium of exchange at any time designated by the Parliament of Canada as part of its currency or designated by a foreign government as part of its currency;

“obligation secured” means, when determining the amount payable under a lease, the amount originally contracted to be paid under the lease, any other amounts payable pursuant to the terms of the lease, and any amount required to be paid by the lessee to obtain full ownership of the collateral;

“pawnbroker” means a person who engages in the business of granting consumer credit and who takes a security interest in the form of a pledge of goods to secure the consumer credit or who purchases goods under an agreement or undertaking, express or implied, that those goods may be afterwards repurchased or redeemed on terms, and “consumer credit” means credit granted to an individual for personal, family or household purposes by a person or organization in the business of granting credit, and, unless the agreement under which credit is granted or the context of the transaction indicates otherwise, a grant of credit is presumed to be a grant of consumer credit;

“person” includes an individual, partnership, association, society, body corporate, trustee, executor, administrator or legal representative;

“proceeds” means identifiable or traceable personal property in any form, or fixtures, derived directly or indirectly from any dealing with collateral or proceeds from the collateral, and

- (a) includes any payment received by way of damages, insurance, compensation, indemnity or settlement in respect of loss of or damage to the collateral or proceeds from the collateral, or any right to such payment, and any payment received by way of total or partial discharge of an intangible, chattel paper, instrument or security, but
- (b) does not include any payment received under a policy or contract of life insurance;

- “purchase” includes taking by sale, lease, discount, negotiation, mortgage, pledge, lien, issue, reissue or gift, or any other voluntary transaction creating an interest in personal property;
- “purchase-money security interest” means
- (a) a security interest in collateral that is taken or reserved by a seller, lessor or consignor of the
  - (b) a security interest that is taken by a person who gives value for the purpose of enabling the debtor to acquire rights in or to the personal property, to the extent that the value is applied to acquire such rights,
  - (c) the interest of a lessor of goods leased for a term of one year or more, or
  - (d) the interest of a consignor of goods delivered under a consignment;
- “registered” in relation to a security interest means registered by the registration under this Act of a financing statement in the registry or in the land titles office, as the case may be;
- “registrar” means the registrar of personal property appointed under this Act;
- “registry” means the registry established under section 40;
- “secured party” means a person who has a security interest and, where a security agreement is embodied in a trust deed, means the trustee;
- “security” means a share, stock, warrant, bond, debenture, debenture stock or the like issued by a corporation or other person, or government
- (a) that is in a form recognized in the area in which it is issued or dealt with as evidencing a share, participation or other interest in property or in an enterprise, or that evidences an obligation of the issuer, and
  - (b) that is of a type that, in the ordinary course of business, is transferred by delivery with any necessary endorsement, assignment, registration in the books of the issuer or agent for the issuer, or compliance with restrictions on transfers;
- “security agreement” means an agreement that creates or provides for a security interest and includes a document that evidences a security agreement where the context permits;
- “security interest” means an interest in goods, documents of title, securities, chattel paper, instruments, money or intangibles that secures payment or performance of an obligation, and includes
- (a) an interest arising from an assignment of accounts or a transfer of chattel paper,
  - (b) an interest of a person who delivers goods to another under a consignment, and
  - (c) an interest of a lessor under a lease of goods for a term of one year or more, notwithstanding that the interests described in paragraphs (a) to (i) may not secure payment or performance of an obligation, but does not include the interest of a seller who has shipped goods to a buyer under a negotiable bill of lading to his own order or to the order of his agent, unless the parties have otherwise evidenced an intention to create or provide for a security interest;
- “serial number” means, with respect to an aircraft governed by the Aeronautics Act (Canada), the registration marks assigned by the Minister of Transport;
- “special consumer goods” means consumer goods consisting of
- (a) a vehicle that is designed to be self-propelled,
  - (b) a trailer as defined in the Motor Vehicles Act,
  - (c) fixtures,

- (d) a small vessel required to be licensed under section 108 of the Canada Shipping Act (Canada),
- (e) an aircraft governed by the Aeronautics Act (Canada), or
- (f) goods the retail market value of which exceeds the prescribed amount;

“specific goods” means goods identified and agreed upon at the time a security agreement in respect of those goods is made;

“trust deed” means any deed, indenture or document, however designated, including any supplement or amendment thereto, by the terms of which a person issues or guarantees, or provides for the issue or guarantee of, debt obligations and in which a person is appointed as trustee for the holder of the debt obligations issued, guaranteed or provided for thereunder and secured by a security interest;

“value” means any consideration sufficient to support a simple contract, and includes an antecedent debt or liability.

(2) Goods are consumer goods, equipment or inventory.

## PART 1

### APPLICATION OF ACT AND CONFLICT OF LAWS

#### Transactions under the Act

2. Subject to sections 3 and 53, this Act applies to every transaction without regard to its form and without regard to the person who has title to the collateral that in substance creates a security interest, including, without limiting the foregoing,

- (a) a chattel mortgage, conditional sale, equipment trust, floating charge, pledge, trust deed, trust receipt, lease, assignment, consignment or transfer of chattel paper, and
- (b) an assignment of accounts, transfer of chattel paper, consignment, or a lease for a term of one year or more, notwithstanding that such interest does not secure payment or performance of an obligation.

#### Transactions not under the Act

3. Except as specifically otherwise provided, this Act does not apply to

- (a) a lien, charge or other interest given by statute, or a lien given by rule of law for the furnishing of goods, services or materials,
- (b) an assignment of wages, salary, pay, commission or other compensation for labour or personal services,
- (c) a transfer of an interest or claim in or under a policy of insurance except insofar as money paid or payable under the policy may be indemnity or compensation for loss of or damage to collateral,
- (d) a transfer of an interest or claim in or under a policy of life insurance or a contract of annuity,
- (e) an assignment of a right to payment under a contract to an assignee who is to perform the assignor’s obligations under the contract,
- (f) a sale of accounts or chattel paper as part of a sale of the business out of which they arose, unless the vendor remains in apparent control of the business after the sale,
- (g) an assignment of accounts solely to facilitate the collection of accounts for the assignor,

- (h) the assignment of any right to payment that arises in connection with an interest in or lease of real property other than an assignment of a right to payment evidenced by a security,
- (i) the creation or assignment of an interest in or a lien on real property, including a lease, except to the extent that provision is made with respect to fixtures,
- (j) an assignment of a claim for damages or a judgment representing a right to damages,
- (k) an assignment for the general benefit of creditors made pursuant to legislation of the Parliament of Canada relating to insolvency, and
- (l) an interest in or claim to property arising under the Family Property and Support Act.

### CONFLICT OF LAWS

#### Validity of interest

4.(1) Except where otherwise provided in this Act, the validity, perfection and effect of perfection or non-perfection of

- (a) a security interest in goods, and
- (b) a possessory security interest in securities, instruments, negotiable documents of title, money and chattel paper,

are determined by the law of the jurisdiction where the collateral is situated when the security interest attaches.

(2) A security interest in goods perfected, under the law of the jurisdiction in which the goods are situated when the security interest attaches, before the goods are brought into the Yukon, continues perfected in the Yukon

- (a) as against a buyer in good faith who acquires an interest in the goods after they are brought into the Yukon, if the security interest is perfected in the Yukon prior to the acquisition, and
- (b) as against all other persons, if the security interest is perfected in the Yukon
  - (i) within 60 days after the day the goods are brought into the Yukon,
  - (ii) within 15 days after the day the secured party receives notice that the goods have been brought into the Yukon, or
  - (iii) prior to the day that perfection ceases under the law of the jurisdiction in which the goods were situated when the security interest attached,

whichever is earliest.

(3) A security interest that is not perfected as provided in subsection (2) may be otherwise perfected in the Yukon under this Act.

(4) Where a security interest mentioned in subsection (1) is not perfected under the law of the jurisdiction in which the collateral was situated when the security interest attached before being brought into the Yukon, it may be perfected under this Act.



**Goods brought into the Yukon**

5.(1) Subject to section 6, if the parties to a security agreement creating a security interest in goods in one jurisdiction understand at the time the security interest attaches that the goods will be kept in another jurisdiction, and the goods are removed to another jurisdiction within 30 days after the security interest attaches for purposes other than transportation through the other jurisdiction, the validity, perfection and effect of perfection or non-perfection of the security interest are determined by the law of the other jurisdiction.

(2) Where the jurisdiction to which the goods are removed is other than the Yukon and the goods are later brought into the Yukon, the security interest in the goods is deemed to be one to which subsection 4(2) applies if it had been perfected under the law of the jurisdiction to which the goods were removed.

**Choice of law**

6.(1) The validity, perfection and effect of perfection or non-perfection of

- (a) a security interest in intangibles or in goods which are of a type that are normally used in more than one jurisdiction, if such goods are classified as equipment or as inventory leased or held for lease by a debtor to others, and
- (b) a non-possessory security interest in securities, instruments, negotiable documents of title, money and chattel paper,

are governed by the law of the jurisdiction where the debtor is located when the security interest attaches.

(2) For the purposes of this section, a debtor is deemed to be located at his place of business if he has one, at his chief executive office if he has more than one place of business, and otherwise at his place of residence.

(3) When a debtor changes his location to another jurisdiction, a perfected security interest mentioned in subsection (1) continues perfected in the new jurisdiction if it is perfected in the new jurisdiction

- (a) within 60 days after the day the debtor changes his location,
- (b) within 15 days after the day the secured party receives notice that the debtor has changed his location, or
- (c) prior to the day that perfection ceases under the law of the first jurisdiction,

whichever is earliest.

(4) If the jurisdiction in which a debtor is deemed to be located under this section does not provide for public registration or recording of security interests mentioned in subsection (1) and the collateral is not in the possession of the secured party, any security interest in the collateral that is not perfected under this Act is deemed to be an unperfected security interest in relation to any interests in the collateral acquired by a person in the Yukon.

(5) A security interest that is not perfected as provided in subsection (3) or is deemed to be unperfected in the Yukon under subsection (4) may be otherwise perfected under this Act.

(6) Notwithstanding section 5 and subsection (1) of this section, the validity, perfection and effect of perfection or non-perfection of a security interest which is created by a debtor who has an interest in minerals or the like, including oil and gas, before extraction and which

attaches thereto upon extraction, or attaches to an account resulting from the sale thereof at the wellhead or minehead, is governed by the law of the jurisdiction in which the wellhead or minehead is located.

### **Priority rules**

7.(1) Except as otherwise provided in this Act, when goods other than those mentioned in subsection (2), securities, instruments, negotiable documents of title, money and chattel paper are dealt with in two or more jurisdictions and a conflict exists between the priority rules of the jurisdictions,

- (a) the priority rules of the last jurisdiction in which the collateral was dealt with in such a way as to give rise to an interest in conflict prevail if all interests in conflict were perfected by registration, and
- (b) the priority rules of the last jurisdiction in which a conflicting possessory security interest in the collateral was taken prevail.

(2) Subject to subsection 6(4), when intangibles or goods that are of a type that are normally used in more than one jurisdiction, if such goods are equipment or inventory leased or held for lease by a debtor to others, are dealt with in two or more jurisdictions and a conflict exists between the priority rules of the jurisdictions, the priority rules of the jurisdiction in which the debtor is located when the last dealing giving rise to the interest in conflict occurs prevail.

(3) For the purposes of this section, collateral is dealt with when

- (a) it is purchased,
- (b) it is seized under judicial process, or
- (c) it becomes subject to a non-consensual lien or charge.

(4) Notwithstanding sections 4, 5 and 6 and subsections (1) and (2) of this section

- (a) all procedural issues involved in the enforcement of the rights of a secured party against collateral other than intangibles are governed by the law of the jurisdiction in which the collateral is located at the time of the exercise of such rights,
- (b) all procedural issues involved in the enforcement of the rights of a secured party against intangibles are governed by the law of the forum, and
- (c) all substantive issues involved in the enforcement of the rights of a secured party against collateral are governed by the proper law of the contract between the secured party and the debtor.

## **PART 2**

### **VALIDITY OF AGREEMENTS AND RIGHTS OF PARTIES**

#### **Enforcement of security interests**

8.(1) A security interest is not enforceable against a person other than the debtor unless

- (a) the collateral is in the possession of the secured party at the time when the other person acquires an interest in the collateral, or

- (b) the debtor has signed a security agreement that contains a description of the collateral that enables the type or kind of collateral taken under the security agreement to be distinguished from types or kinds of collateral that are not collateral under the security agreement.

(2) For the purposes of paragraph (1)(b), in the case of a security interest taken in all of the debtor's present and after-acquired property, a statement indicating that a security interest has been taken in all of the debtor's present and after-acquired property is sufficient.

(3) A security interest in proceeds is not unenforceable against a person other than the debtor by reason only that the security agreement does not contain a description of the proceeds as required by paragraph (1)(b).

### **Delivery of copy of agreement**

9.(1) Where a security agreement is in writing, the secured party shall deliver a copy of it to the debtor, without charge, within 21 days after its execution.

(2) Where a secured party fails to comply with subsection (1) after a request to do so by the debtor, a judge, on application by the debtor, may make an order for the delivery of a copy to the debtor and make such order as to costs as the judge deems just.

(3) Subsection (1) does not apply to assignments of accounts or chattel paper not intended as security.

### **Failure to deliver copy**

10.(1) Where the secured party fails to comply with an order made under subsection 9(2), the debtor may apply to have the secured party's security interest, or any part of it, declared void, and if in all the circumstances, and having regard to the prejudice suffered by the debtor and the secured party, this is an appropriate remedy, the judge shall declare the security interest or part of it void.

(2) Where all or part of a security interest has been declared void, a judge may, on application by the person who but for such declaration would have been a secured party, order the security interest to be reinstated, if satisfied that it would be appropriate to do so.

(3) Where all or part of a security interest is ordered to be reinstated, priority in that security interest shall be determined by the latest of the following events:

- (a) the date on which the reinstatement is ordered;
- (b) the date on which the security interest is registered;
- (c) the date on which the secured party acquires possession of the collateral.

### **Attachment**

11.(1) A security interest attaches when

- (a) value is given,
- (b) the debtor has rights in the collateral, and
- (c) except for the purpose of enforcing inter partes rights of the parties to the security agreement, it becomes enforceable within the meaning of section 8,

unless the parties intend it to attach at a later time, in which case it attaches in accordance with the intentions of the parties.

- (2) For the purposes of subsection (1),
  - (a) a debtor has rights in goods purchased by him under an agreement for sale when he obtains possession of them pursuant to the agreement, and
  - (b) a debtor has rights in goods leased to him, hired by him or delivered to him under a consignment when he obtains possession of them pursuant to the lease, hiring agreement or consignment.
- (3) For the purposes of subsection (1), the debtor has no rights in
  - (a) crops until they become growing crops,
  - (b) fish until they are caught,
  - (c) the young of animals until they are conceived,
  - (d) oil, gas or other minerals until they are extracted, or
  - (e) timber until it is cut.

**After-acquired property**

12.(1) Except as provided in subsection (2), a security agreement may cover after-acquired property, and such a security interest attaches in accordance with section 11 without specific appropriation by the debtor.

(2) No security interest attaches under an after-acquired property clause in a security agreement to crops that become such more than one year after the security agreement has been executed, except that a security interest in crops given in conjunction with a lease, purchase or mortgage of land may, if so agreed, attach to crops to be grown on the land during the term of the lease, purchase or mortgage.

**Future advances**

13.(1) Obligations covered by a security agreement may include future advances whether or not the advances are given pursuant to a commitment in the security agreement.

(2) No obligation to make future advances is binding on a secured party if the collateral has been seized, attached or charged under circumstances described in paragraph 19(1)(b) or (c) and the secured party receives notice of this fact.

**Sales law**

- 14. Where a seller retains a purchase-money security interest in goods,
  - (a) the Sale of Goods Act governs the sale and any disclaimer, limitation or modification of the seller's conditions and warranties, and
  - (b) the conditions and warranties in the sale agreement are not affected by any security agreement.

**Acceleration provisions**

15. A provision in a security agreement that provides that the secured party may accelerate payment or performance when he deems himself insecure shall be construed to mean that he may do so only if he has commercially reasonable grounds to believe that the prospect of payment or performance is or is about to be impaired.

**Rights and duties of secured party**

**16.**(1) A secured party shall use reasonable care in the custody and preservation of collateral in his possession and, unless otherwise agreed,

- (a) in the case of an instrument, a security or chattel paper, reasonable care includes taking necessary steps to preserve rights against prior parties, and
  - (b) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled.
- (2) Unless otherwise agreed, where collateral is in the secured party's possession,
- (a) reasonable expenses, including the cost of insurance and payment of taxes or other charges incurred in the custody and preservation of the collateral, are chargeable to the debtor and are secured by the collateral,
  - (b) the risk of loss or damage, except where caused by the negligence of the secured party, is on the debtor to the extent of any deficiency in any insurance coverage,
  - (c) the secured party may hold as additional security any increase or profits, except money, received from the collateral, and shall apply money so received, unless remitted to the debtor, forthwith upon its receipt, in reduction of the obligation secured, and
  - (d) the secured party may create a security interest in the collateral upon terms that do not impair the debtor's rights under Part 5.

(3) A secured party does not lose his security interest for failing to meet any obligation imposed by subsection (1) or (2).

(4) A secured party may use the collateral

- (a) in the manner and to the extent provided in the security agreement,
- (b) for the purpose of preserving the collateral or its value, or
- (c) pursuant to an order of
  - (i) a court before which a question relating thereto is being heard, or
  - (ii) a judge upon application with notice to all persons concerned.

**Information for debtor from secured party**

**17.**(1) A debtor, creditor, sheriff or person with a legal or equitable interest in the collateral may, by a notice in writing, containing an address for reply and served on the secured party, require the secured party to send or deliver to him, at the address for reply,

- (a) a statement in writing of the amount of indebtedness and the terms of payment as of the date specified in the notice,
- (b) a written approval or correction, as of the date specified in the notice, of the itemized list of the collateral attached to the notice,
- (c) a written approval or correction, as of the date specified in the notice, of the amount of the indebtedness and the terms of payment, and
- (d) a copy of the security agreement, and amendments, if any,

or any one or more of the foregoing.

(2) Where a notice referred to in paragraph (1)(b) is served on the secured party and he claims a security interest in all of a particular type of collateral in which the debtor has rights, the secured party may so indicate in lieu of approving or correcting the itemized list of the collateral.

(3) The secured party shall comply with a notice given under subsection (1) within 15 days after it is served and, if without reasonable excuse he fails to do so or his reply is incomplete or incorrect, the person who has given the notice is entitled, in addition to any other remedy provided under this Act, to apply to a judge for an order requiring the secured party to comply with the notice.

(4) Where the person receiving a notice under subsection (1) no longer has an interest in the obligation or collateral, he shall, within 15 days after it is served, disclose the name and address of the latest successor in interest known to him, and if without reasonable excuse he fails to do so or his reply is incomplete or incorrect, the person who has given the notice is entitled to the same remedies as provided in subsections (3) and (6).

(5) A successor in interest shall be deemed to be the secured party for the purposes of this section when he receives a notice under subsection (1).

(6) Where a secured party fails to comply with an order granted under subsection (3), a judge on application of the person who obtained the order may

- (a) declare the security interest of the secured party void and order that registration of the security interest be removed from the registry, and
- (b) make any order he considers necessary to ensure compliance with the order granted under subsection (3).

(7) The secured party may require payment of the prescribed charges for each reply to a notice under subsection (1), but the debtor is entitled to a reply without charge once in every six months.

(8) Upon application of the secured party or in an application under subsection (3), a judge may

- (a) make any order that is reasonable and just, including an order exempting the secured party in whole or in part from complying with the notice, if the judge is satisfied that the person giving the notice, not being the debtor, is acting in bad faith and is seeking the information for other than ordinary commercial purposes, and
- (b) make any order as to costs that he considers fair and reasonable.

(9) Where all or part of a security interest has been declared void, a judge may, on application by the person who but for such declaration would have been a secured party, order the security interest to be reinstated, if satisfied that it would be appropriate to do so.

(10) Where all or part of a security interest is ordered to be reinstated, priority in that security interest shall be determined by the latest of the following events:

- (a) the date on which the reinstatement is ordered;
- (b) the date on which the security interest is registered;
- (c) the date on which the secured party acquires possession of the collateral.

(11) The notice mentioned in subsection (1) may be served in accordance with section 65 or by registered or certified mail addressed to the post office address of the secured party as it appears on the security agreement or financing statement.

(12) The secured party is not required to provide a copy of any document registered in the registry.

## PART 3

### PERFECTION AND PRIORITIES

#### Time of perfection

**18.** A security interest is perfected when

- (a) it has attached, and
- (b) all steps required for perfection under this Act have been completed,

regardless of the order of occurrence.

#### Subordination of security interests

**19.(1)** An unperfected security interest is subordinate to an interest of

- (a) a person who has a perfected security interest or who is otherwise entitled to priority under this Act,
- (b) a person who causes the collateral to be seized under legal process, including execution, attachment or garnishment, or who obtains a charging order or equitable execution affecting the collateral,
- (c) a sheriff who has seized or has obtained a right to the collateral under the Creditors Relief Act,
- (d) a representative of the creditors of the debtor, but only for the purpose of enforcing the rights of persons mentioned in paragraph (b), and a trustee in bankruptcy, and
- (e) a transferee who is not a secured party and acquires his interest for value without notice of the security interest and before it is perfected
  - (i) in documents of title, securities, instruments or goods, where the transferee receives delivery of the collateral,
  - (ii) in intangibles other than accounts,
  - (iii) in accounts acquired through a transaction not otherwise governed by this Act, or
  - (iv) in chattel paper acquired through a transaction not otherwise governed by this Act, where the transferee receives possession of the chattel paper.

(2) A perfected security interest is subordinate to the rights of persons mentioned in paragraphs (1)(b) to (d) except to the extent that the security interest secures

- (a) advances made before the interest of such a person arises,
- (b) advances made before the secured party receives notice of the interests of such persons, or
- (c) reasonable costs incurred and expenses made by the secured party for the protection, maintenance, preservation or repair of the collateral.

#### Purchase-money security interests

**20.** A purchase-money security interest that is registered before or within 15 days after the debtor's possession of the collateral commences, or in the case of an intangible, within 15 days after the security interest attaches, has priority over the interest of a person mentioned in paragraphs 19(1)(b) to (d).

**Continuity of perfection**

21.(1) If a security interest is originally perfected in any way permitted under this Act and is again perfected in some way under this Act without an intermediate period when it is unperfected, the security interest shall be deemed to be perfected continuously for the purposes of this Act, and shall be deemed for the purposes of section 34 to be continuously perfected in the way in which it was originally perfected.

(2) An assignee of a security interest succeeds in so far as its perfection is concerned to the position of the assignor at the time of the assignment.

**Perfection by possession**

22.(1) Subject to section 18, possession of the collateral by the secured party, or on his behalf by a person other than the debtor or the debtor's agent, perfects a security interest in

- (a) chattel paper,
- (b) goods,
- (c) instruments,
- (d) securities,
- (e) negotiable documents of title, or
- (f) money

but, subject to section 21, only while it is actually held as collateral.

(2) For the purposes of subsection (1), a secured party is deemed not to have taken or retained possession of collateral that is in the apparent possession or control of the debtor or the debtor's agent.

**Perfection by registration**

23. Subject to section 18, registration perfects a security interest in any collateral, but only during the period in which the registration of a financing statement relating to the security interest is effective.

**Automatic perfection**

24. A security interest that is a purchase-money security interest in consumer goods other than special consumer goods is perfected automatically immediately upon attachment without the need for compliance with section 22 or section 23, or any other provision of this Act dealing with the perfection of a security interest except paragraph 18(a).

**Temporary perfection**

25.(1) A security interest in instruments, securities or negotiable documents of title is a perfected security interest for the first 15 days after it attaches to the extent that it arises for new value given under a written security agreement.

(2) A security interest perfected under section 22 in

- (a) an instrument that a secured party delivers to the debtor for the purpose of
  - (i) ultimate sale or exchange,
  - (ii) presentation, collection, or renewal, or
  - (iii) registration of transfer, or



- (b) a negotiable document of title, or goods held by a bailee that are not covered by a negotiable document of title, which document of title or goods the secured party makes available to the debtor for the purpose of
  - (i) ultimate sale or exchange,
  - (ii) loading, unloading, storing, shipping or trans-shipping, or
  - (iii) manufacturing, processing, packaging or otherwise dealing with goods in a manner preliminary to their sale or exchange,

remains perfected for the first 15 days after the collateral comes under the control of the debtor.

(3) After the expiration of the period of time mentioned in subsection (1) or (2), a security interest under this section becomes subject to the provisions of this Act for perfecting a security interest.

### **Proceeds**

**26.(1)** Subject to this Act, where collateral gives rise to proceeds, a security interest in the collateral

- (a) continues as to the collateral, unless the secured party expressly or impliedly agrees otherwise, and
- (b) extends to the proceeds.

(2) A security interest in proceeds is a continuously perfected security interest if the interest in the original collateral

- (a) is perfected by the registration of a financing statement that covers the original collateral and proceeds from it, and contains a prescribed description,
- (b) is perfected by the registration of a financing statement that covers the original collateral and proceeds from it, where the proceeds are of a type that falls within the description of the original collateral contained in the financing statement, or
- (c) is perfected by the registration of a financing statement that covers the original collateral and proceeds from it, where the proceeds consist of money, a bill of exchange drawn on a financial institution, or a deposit account with a financial institution.

(3) In a case other than one mentioned in subsection (2), a security interest in proceeds is a continuously perfected security interest if the interest in the original collateral was perfected, and the security interest in the proceeds remains perfected for a period of 15 days after receipt of the proceeds by the debtor but becomes unperfected thereafter, unless the security interest in the proceeds is otherwise perfected by any of the methods and under the circumstances prescribed in this Act for original collateral of the same type or kind.

### **Goods held by bailee**

**27.(1)** A security interest in goods in the possession of a bailee is perfected

- (a) by the issuance of a document of title in the name of the secured party,
- (b) by a holding on behalf of the secured party pursuant to section 22,
- (c) by registration as to the goods, or
- (d) where the bailee has issued a negotiable document of title covering the goods, by perfection of a security interest in the negotiable document of title.

(2) The issuance of a negotiable document of title covering goods does not preclude any other security interest in the goods from arising during the period that the negotiable document of title is outstanding.

(3) A security interest in a negotiable document of title covering goods takes priority over a security interest in the goods otherwise perfected after the goods become covered by the negotiable document of title.

(4) Notwithstanding subsection (3), a perfected security interest in goods takes priority over a security interest in a negotiable document of title covering the goods where the security interest in the goods was registered at the time when the security interest in the negotiable document of title was perfected.

**Returned or repossessed goods**

28.(1) A security interest in goods that are the subject of a sale or lease and that are returned to, or repossessed by,

- (a) the person who sold or leased the goods,
- (b) a transferee of chattel paper or a person having a security interest in an intangible resulting from the sale or lease of the goods, or
- (c) a secured party who had a security interest in the goods at the time they were sold or leased or anyone claiming from or under him,

reattaches to the extent that the obligations under the security agreement remain unfulfilled.

(2) Where a security interest that reattaches under subsection (1) was perfected at the time of the sale, lease or exchange by a registration that is still effective at the time of the return or repossession of the goods, the security interest reattaches as a perfected interest, but otherwise requires for its perfection a registration or a taking of possession by the secured party.

(3) A security interest in goods that attaches while the goods are in the possession of a buyer or lessee of the debtor and that is perfected before the goods are returned or repossessed has priority over the security interest mentioned in paragraph (1)(c).

(4) Where a sale or lease creates chattel paper and the goods are returned or repossessed, the unpaid transferee of the chattel paper has a security interest in the goods, and, if the unpaid transferee took possession of the chattel paper in the ordinary course of business and for new value, the transferee's security interest has priority over the security interest mentioned in paragraph (1)(c) and has priority over a security interest in the returned or repossessed goods as after-acquired property which first attaches on return or repossession.

(5) Where a sale or lease creates an intangible and the goods are returned or repossessed, the secured party who had the security interest in the intangible has a security interest in the goods, but the security interest mentioned in paragraph (1)(c) has priority over that interest.

(6) A security interest asserted under subsection (4) or (5) is a perfected security interest in the goods when the security interest in the chattel paper or intangible was perfected, but it becomes unperfected 15 days after the day of return or repossession of the goods unless the secured party perfects his interest in the goods by taking possession of them or registering his security interest in them before the expiration of the 15 day period.

**Dealings in the ordinary course of business**

29.(1) A buyer or lessee of goods sold or leased in the ordinary course of the business of the seller or lessor takes them free from any perfected or unperfected security interest in the goods given by or reserved against the seller or lessor or arising under section 28, whether or not the buyer or lessee knows of it, unless he also knows that the sale or lease constitutes a breach of the security agreement.

(2) Where goods of a type in respect of which registration by serial number is permitted by the regulations are sold or leased otherwise than in the ordinary course of business of the seller or lessor and the goods were equipment of the seller or lessor, the buyer or lessee takes free from any security interest in the goods given by the seller or lessor and perfected under section 23 if

- (a) he buys or leases the goods without knowledge of the security interest, and
- (b) the goods are not described by serial number in a financing statement.

(3) A buyer or lessee of consumer goods other than special consumer goods takes free of a perfected security interest in those goods if

- (a) he buys or leases the goods without knowledge of the security interest,
- (b) he gives new value for his interest, and
- (c) he receives delivery of the goods.

(4) For the purposes of subsections (1), (2) and (3), the sale or lease may be for cash, by exchange for other property, on credit or by delivery of goods or documents of title under a pre-existing contract for sale or lease, but subsections (1), (2) and (3) do not apply to a transfer in bulk, or to a transfer as security for or in total or partial satisfaction of a past liability.

(5) A buyer or lessee of goods takes free of a security interest that is temporarily perfected under subsection 25(2), 26(3) or 28(6) or a security interest the perfection of which is continued under subsections 45(2) to (5) during any of the 15 day periods mentioned in subsections 45(2) to (5) if

- (a) he gives new value for his interest,
- (b) he buys or leases the goods without notice of the security interest, and
- (c) he receives delivery of the goods.

**Money, instruments, securities, etc.**

30.(1) A holder of money has priority over any security interest in it perfected under section 23 or temporarily perfected under subsection 26(3) if the holder

- (a) acquired the money without notice that it was subject to a security interest, or
- (b) was a holder for value, whether or not he acquired the money without notice that it was subject to a security interest.

(2) Notwithstanding subsections (1) and (3), a creditor who receives money or an instrument drawn or made by a debtor and delivered in payment of a debt owing to him by that debtor takes free from a security interest in the money or instrument drawn or made by the debtor whether or not the creditor has notice of the security interest.

(3) A purchaser of an instrument or a security has priority over any security interest in the instrument or security perfected under section 23 or temporarily perfected under section 25 or subsection 26(3) if the purchaser

- (a) gave value for his interest,
- (b) acquired the instrument or security without notice that it was subject to a security interest, and
- (c) took possession of the instrument or security.

(4) A holder to whom a negotiable document of title has been negotiated has priority over any security interest in the negotiable document of title that is perfected under section 23 or temporarily perfected under section 25 or subsection 26(3) if the holder

- (a) gave value for the document of title, and
- (b) took the negotiable document of title without notice that it was subject to a security interest.

(5) A purchaser of chattel paper who takes possession of it in the ordinary course of business and who gives new value for it

- (a) has priority over any security interest in it that, in the case of chattel paper claimed as original collateral, was perfected under section 23, or any security interest in it as proceeds of equipment or consumer goods, if the purchaser acquired the chattel paper without notice that it was subject to a security interest, and
- (b) has priority over any security interest in it as proceeds of inventory, whether or not the purchaser has notice of the security interest.

### **Liens**

**31.** Where a person in the ordinary course of business furnishes materials or services with respect to goods that are subject to a security interest, any lien that he has in respect of the materials or services has priority over a perfected security interest unless the lien is given by an Act that provides that the lien does not have such priority.

### **Transfer by debtor**

**32.** The rights of a debtor in collateral may be transferred voluntarily or involuntarily, notwithstanding a provision in the security agreement prohibiting transfer or declaring a transfer to be a default, but no transfer prejudices the rights of the secured party under the security agreement or otherwise, including the right to treat a prohibited transfer as an act of default.

### **Purchase-money security interests**

**33.(1)** Subject to section 26, a purchase-money security interest in collateral or its proceeds, other than inventory, has priority over any other security interest in the same collateral or its proceeds given by the same debtor where the purchase-money security interest is perfected

- (a) in the case of an intangible, before or within 15 days after the purchase-money security interest in the intangible attaches, or
- (b) in the case of collateral other than an intangible, before or within 15 days after the debtor receives possession of the collateral.

(2) Subject to section 26 and subsection (4), a purchase-money security interest in inventory or its proceeds has priority over another security interest in the same collateral given by the same debtor if

- (a) the purchase-money security interest in the inventory is perfected at the time when the debtor obtains possession of the collateral, and
- (b) the purchase-money secured party gives a notice in accordance with subsection (3) to the holder of the other security interest, where the holder of the other security interest has, before the earlier of
  - (i) the date of registration by the purchase-money secured party, or
  - (ii) the date when the collateral comes under the control of the debtor,

registered a financing statement covering the same type or kind of collateral of the debtor.

(3) For the purposes of subsection (2), a notice shall

- (a) state that the person giving the notice has acquired, or expects to acquire, a purchase-money security interest in inventory of the debtor and its proceeds,
- (b) contains a description of the inventory and its proceeds according to type or kind, and
- (c) be received by the holder of the other security interest within a period of two years before the debtor obtains possession of the collateral.

(4) No purchase-money security interest in proceeds of inventory has priority over a security interest in accounts given for new value where a financing statement relating to the security interest in accounts is registered before the purchase-money security interest is perfected or a financing statement relating to it is registered.

(5) A purchase-money security interest in proceeds under subsection (1) or (2) is subordinate to a non-proceeds purchase money security interest in the same collateral if the non-proceeds purchase-money security interest is perfected at the time when the debtor obtains possession of the collateral or within 15 days thereafter.

(6) A perfected security interest in crops or their proceeds given for value to enable the debtor to produce the crops during the production season and given not more than three months before the crops become growing crops by planting or otherwise has priority over an earlier perfected security interest to the extent that such earlier interest secures obligations that were contracted more than six months before the crops become growing crops by planting or otherwise, even though the person giving the value has notice of the earlier security interest.

(7) A purchase-money security interest in collateral or its proceeds held by a seller, lessor or consignor of the collateral has priority over any other purchase-money security interest in the same collateral where the interest of the seller, lessor or consignor is perfected

- (a) in the case of an intangible, within 15 days after the purchase-money security interest in the intangible attaches, or
- (b) in the case of collateral other than an intangible, within 15 days after the debtor receives possession of the collateral.

**Priorities**

**34.(1)** If no other provision of this Act is applicable, priority between conflicting perfected security interests in the same collateral shall be determined by the order of

- (a) registration,
- (b) possession of the collateral by the secured party under section 22, and
- (c) perfection,

whichever is earliest, and, as between unperfected security interests, by the order of attachment.

(2) Where, after the registration or perfection of a security interest, or after possession is taken of collateral by a secured party, there is a period during which there is no registration or perfection of the security interest, or there is no possession of the collateral by the secured party, the priority of the security interest shall be determined with reference to the time when, subsequently or again, the security interest is registered or perfected, or possession is taken of the collateral by the secured party.

(3) The date for determining priority of conflicting security interests in proceeds, where no other provision of this Act is applicable, is the date established under subsection (1) for determining priority between conflicting security interests in the collateral.

(4) If future advances are made while a security interest is perfected, the security interest has the same priority for the purposes of this section with respect to future advances as it has with respect to the first advance.

(5) Where the registration of a security interest lapses as a result of the secured party's failure to renew the registration or where the registration of a security interest has been discharged fraudulently, in error or without authorization, the secured party may re-register his security interest within 30 days after the lapse or discharge, and where he re-registers the prior lapse or discharge does not affect the priority status of the security interest in relation to competing interests in the collateral that arose prior to the lapse or discharge, except insofar as subsequent advances are made or contracted for following the lapse or discharge and prior to the re-registration.

(6) Where a debtor transfers his interest in collateral that at the time of the transfer is subject to a security interest, the security interest has priority over any other security interest granted by the transferee before the transfer, except insofar as the security interest granted by the transferee secures advances made or contracted for after the transfer at a time when the security interest is unperfected through the operation of section 45.

(7) Subsection (6) does not apply where the transferee acquires the debtor's interest free of the security interest granted by the debtor.

**Fixtures**

**35.(1)** Except as provided in subsections (2), (3) and (4),

- (a) a security interest that attaches to goods before they become fixtures has priority as to the goods over the claim of any person to the extent that his interest in the goods depends upon his interest in the real property, and

- (b) a security interest that attaches to goods after they become fixtures has priority as to the goods over the claim of a person to the extent that his interest in the goods depends upon an interest in the real property subsequently acquired, but does not have priority over the claim of a person to the extent that his interest in the goods depends upon an interest in the real property that is registered at the time when the security interest attaches to the goods if he does not, in writing, consent to the security interest or disclaim his interest in the goods depending upon his interest in the real property.

(2) A security interest mentioned in subsection (1) is subordinate to another interest in the goods to the extent that the other interest depends upon a subsequent purchase for value of an interest in the real property, or upon a prior encumbrance of record on the real property in respect of a subsequent advance, if the purchase or advance is made or contracted for without fraud and before the security interest is registered under the Land Titles Act (Canada) in accordance with section 43.

(3) A security interest mentioned in subsection (1) is subordinate to another interest in the goods to the extent that the other interest depends upon the binding of the real property by a writ under section 125 of the Land Titles Act (Canada) without fraud and before the security interest is registered under the Land Titles Act (Canada) in accordance with section 43.

(4) Notwithstanding subsection (3), an interest in goods, to the extent that it depends upon the binding of real property under section 125 of the Land Titles Act (Canada), is subordinate to a purchase-money security interest in the goods that is registered under the Land Titles Act (Canada) within 15 days after the debtor receives possession of the goods.

(5) A secured party who intends to exercise his right to remove fixtures from real property shall serve, on each person who appears by the records of the land titles office to have an interest in the real property, a written notice containing

- (a) the name and address of the secured party,
- (b) a description of the fixtures to be removed sufficient to enable them to be identified,
- (c) a statement as to the amount required to satisfy the obligations secured by his security interest,
- (d) a description of the real property, and
- (e) a statement of his intention to remove the fixtures unless the obligations secured by his security interest are satisfied before a specified day that is not less than 12 days after the service of the notice.

(6) A notice under subsection (5) may be served in accordance with subsection 65(1) or by registered or certified mail addressed to the post office address of the person to be served as it appears in the records of the land titles office.

(7) A secured party shall not exercise his right to remove fixtures from real property

- (a) before the expiration of 15 days after the service of every notice required to be served under subsection (5), or
- (b) after he is refused permission under subsection (9).

(8) Any person, other than the debtor, who has an interest in the real property at the time when goods subject to a security interest become fixtures is entitled to reimbursement for any damage to his interest in the real property resulting from the removal of the fixtures, but is not entitled to reimbursement for diminution in the value of the real property caused by the absence of the fixtures removed or by the necessity for their replacement.

(9) The persons entitled to reimbursement as provided in subsection (8) may refuse permission to remove the goods until the secured party has given adequate security for the reimbursement.

(10) The secured party may apply to the Supreme Court for an order

- (a) determining the persons entitled to reimbursement under this section,
- (b) determining the amount and kind of security to be provided by the secured party,
- (c) dispensing with the consent of any or all of the persons mentioned in paragraph (a), or
- (d) prescribing the depository for the security.

(11) A person entitled to receive a notice under subsection (5) may apply to a judge for an order postponing the removal of the goods from the real property, and the judge may make any order that he considers just.

(12) A person having an interest in real property that is subordinate to a security interest by virtue of subsection (1) may, before the fixtures are removed from the real property by the secured party, retain the fixtures upon satisfaction of the obligations secured by the security interest having priority over his interest.

(13) A secured party who, under this Act, has the right to remove fixtures from real property shall exercise his right of removal in a manner that causes no greater damage or injury to the land or to the other property situated on the land, or that puts an owner, lessee or occupier of the real property to any greater inconvenience, than is necessarily incidental to the removal of the fixtures.

### **Accessions**

**36.(1)** Except as provided in subsections (2), (3) and (4) and in section 37,

- (a) a security interest that attaches to goods before they become an accession has priority as to the accession over the claim of any person to the extent that his interest in the accession depends upon his interest in the goods to which the accession is affixed or attached, and
- (b) a security interest that attaches to goods after they become an accession has priority as to the accession over the claim of a person to the extent that his interest in the accession depends upon an interest subsequently acquired in the goods to which the accession is affixed or attached, but does not have priority over the claim of a person to the extent that his interest in the accession depends upon an interest in the goods to which the accession is affixed or attached, acquired before the attachment of the security interest in the accession, if he does not, in writing, consent to the security interest in the accession or disclaim his interest in the accession depending upon his interest in the goods to which the accession is affixed or attached.



(2) A security interest mentioned in subsection (1) is subordinate to another interest in the accession to the extent that the other interest depends upon a subsequent purchase for value of an interest in the goods to which the accession is affixed or attached, or upon a prior perfected security interest in those goods in respect of a subsequent advance, if the purchase or advance is made or contracted for before the security interest mentioned in subsection (1) is perfected.

(3) A security interest mentioned in subsection (1) is subordinate to the interest of a sheriff or a creditor who has caused the goods to which the accession is affixed or attached to be seized under judicial process to enforce a judgment before the security interest is perfected.

(4) Notwithstanding subsection (3), an interest in an accession, to the extent that it depends upon the exercise of the rights of a sheriff or a creditor referred to in subsection (3), is subordinate to a purchase-money security interest that is perfected within 15 days after the debtor obtains possession of the collateral.

(5) A secured party who intends to exercise his right to remove accessions from the goods to which they are attached shall serve, on each person known by him to have an interest in those goods and on any person who has registered a financing statement indexed in the name of the debtor and referring to those goods, a written notice containing

- (a) the name and address of the secured party,
- (b) a description of the accession to be removed sufficient to enable it to be identified,
- (c) a statement as to the amount required to satisfy the obligations secured by his security interest,
- (d) a description of the goods to which the accession is affixed or attached sufficient to enable the goods to be identified, and
- (e) a statement of his intention to remove the accessions from the goods to which they are affixed or attached unless the obligations secured by his security interest are satisfied before a specified day that is not less than 12 days after the service of the notice.

(6) A notice under subsection (5) may be served in accordance with subsection 65(1) or, in the case of a person who has registered a financing statement, by registered mail addressed to his post office address as it appears on the security agreement or financing statement.

(7) A secured party shall not exercise his right to remove an accession from the goods to which it is affixed or attached

- (a) before the expiration of 15 days after the service of every notice required to be served under subsection (5), or
- (b) after he is refused permission under subsection (9).

(8) Any person, other than the debtor, who has an interest in the goods to which an accession is affixed or attached at the time when the goods subject to a security interest become an accession is entitled to reimbursement for any damage to his interest in the goods to which the accession is affixed or attached resulting from the removal of the accession, but is not entitled to reimbursement for diminution in their value caused by the absence of the accession or by the necessity for its replacement.

(9) The persons entitled to reimbursement as provided in subsection (8) may refuse permission to remove the goods until the secured party has given adequate security for the reimbursement.

(10) The secured party may apply to the Supreme Court for an order

- (a) determining the persons entitled to reimbursement under this section,
- (b) determining the amount and kind of security to be provided by the secured party,
- (c) dispensing with the consent of any or all of the persons mentioned in paragraph (a), or
- (d) prescribing the depository for the security.

(11) A person entitled to receive a notice under subsection (5) may apply to a judge for an order postponing removal of the accession from the goods to which it is affixed or attached, and the judge may make any order that he considers just.

(12) A person having an interest in goods that is subordinate to a security interest by virtue of subsection (1) may, before the accession is removed, retain the accession upon satisfaction of the obligations secured by the security interest having priority over his interest.

(13) A secured party who has the right to remove an accession from the goods to which it is affixed or attached shall exercise his right of removal in a manner that causes no greater damage or injury to those goods, or that puts the person who is in possession of those goods to any greater inconvenience, than is necessarily incidental to the removal of the accession.

### **Commingled goods**

37.(1) A perfected security interest in goods that subsequently become part of a product or mass continues in the product or mass if the goods are so manufactured, processed, assembled or commingled that their identity is lost in the product or mass.

(2) Where more than one perfected security interest attaches to the product or mass, the security interests are entitled to share in the product or mass according to the ratio that the obligations secured by each security interest entitled to share bear to the sum of the obligations secured by all the security interests entitled to share.

(3) This section does not apply to a security interest in an accession to which section 36 applies.

### **Subordination by agreement**

38. A secured party may, in the security agreement or otherwise, subordinate his security interest to any other security interest.

### **Assignment by secured party**

39.(1) Unless a debtor on an intangible or chattel paper has made an enforceable agreement not to assert defences or claims arising out of a contract between the debtor and the assignor, the rights of an assignee are subject to

- (a) all the terms of the contract between the debtor on an intangible or chattel paper and the assignor and any defence or claim arising out of the contract, and

- (b) any other defence or claim of the debtor on an intangible or chattel paper against the assignor that accrued before the debtor on an intangible or chattel paper received notice of the assignment.

(2) So far as the right to payment under an assigned contract right has not been earned by performance, and notwithstanding notification of the assignment, any modification of or substitution for the contract made in good faith, in accordance with reasonable commercial standards, and without material adverse effect upon the assignee's rights under or the assignor's ability to perform the contract, is effective against an assignee unless the debtor on an intangible or chattel paper has otherwise agreed, but the assignee acquires corresponding rights under the modified or substituted contract.

(3) Nothing in subsection (2) affects the validity of a term in an assignment agreement that provides that any modification or substitution in relation to the agreement by the assignor is a breach of the agreement by the assignor.

(4) Subject to section 23 of the Judicature Act, the debtor on an intangible or chattel paper may pay the assignor until the debtor receives notice of the assignment reasonably identifying the relevant rights and, if requested by the debtor within a reasonable time, proof of the assignment.

(5) A term in a contract between a debtor on an intangible and an assignor that prohibits assignment of the whole of an account or intangible for money due or to become due is void.

## PART 4 REGISTRATION SYSTEM

### Registry and staff

**40.(1)** A registration system, including a registry for the registration of financing statements, shall be established for the purposes of this Act.

(2) There shall be appointed, from among the members of the public service, a registrar of personal property security.

(3) The registrar shall supervise the administration of the registration system established under subsection (1).

(4) The registrar may designate one or more persons on the staff of his office to act on his behalf.

### Searches

**41.(1)** Upon the request of any person in a prescribed manner and upon payment of the prescribed fee in the prescribed manner, the registrar shall

- (a) issue a search report stating whether there is registered at the time mentioned in the search report a financing statement
- (i) that bears the registration number given in the request,
  - (ii) that shows as a debtor the person named in the request, or

- (iii) that describes by serial number any collateral for which the serial number is given in the request,
- (b) if such a financing statement is registered, include in the search report the information respecting the financing statement contained in the registration system,
- (c) provide a certified copy of any registered financing statement, or
- (d) provide such further or other information as he may be required by regulation to provide.

(2) A search report issued under paragraph (1)(a) is prima facie evidence of its contents.

(3) A certified copy issued under paragraph (1)(c) is prima facie evidence of the contents of the financing statement of which it is a copy.

(4) A search report issued under paragraph (1)(a) may contain a warning in such words as may be prescribed concerning its accuracy.

(5) A copy of any registered document certified by the registrar is receivable in evidence as prima facie proof for all purposes, without proof of his signature or official position.

(6) A certificate of the registrar is receivable in evidence as prima facie proof of the time of the registration of a document without proof of his signature or official position.

### **Financing statements**

42.(1) In order to register under this Act for the purpose of perfecting a security interest, a financing statement shall be registered that contains in typed form

- (a) the name and address of the debtor,
- (b) the name and address of the secured party,
- (c) a prescribed description of the collateral, and
- (d) such further or other information as may be prescribed.

(2) A financing statement may be tendered for registration at the registry, or it may be sent for registration by mail addressed to the prescribed address.

(3) Where, in the opinion of the registrar, a document tendered for registration does not comply with this Act, he may refuse to register it, and shall give the reason for his refusal.

(4) For the purposes of this Act, a writing is deemed to be signed by a person when it is signed by the person or his agent.

(5) A financing statement may be registered at any time, and before a security agreement is made or a security interest attaches.

### **Fixtures and crops**

43.(1) In order to perfect, against interests to which the Land Titles Act (Canada) applies, a security interest in crops that are growing or to be grown or in goods before or after they become fixtures, a copy of the financing statement and such form of application for registration as may be prescribed shall also be registered under the Land Titles Act (Canada).

(2) A security interest in crops or in fixtures may be perfected as a security interest in goods without also being perfected pursuant to subsection (1).

(3) A copy of a financing statement accompanied by a form of application for registration prescribed under subsection (1) may be registered under the Land Titles Act (Canada), and the registrar or deputy registrar appointed under the Land Titles Act (Canada), upon payment of the proper fee, shall enter and register the financing statement as an encumbrance against the land therein described as provided by the Land Titles Act (Canada).

(4) A copy of a financing statement is not registrable under subsection (3) unless,

- (a) it contains a description of the land to which it relates that is satisfactory to the registrar or deputy registrar appointed under the Land Titles Act (Canada), and
- (b) the title to the land to which it relates is registered under the Land Titles Act (Canada).

(5) Where the registration of a financing statement ceases to be effective under section 52, or where a discharge of a security agreement or release of collateral is made under section 50, the registrar or deputy registrar appointed under the Land Titles Act (Canada) shall, upon the production of such proof if any as he may require, make an entry as provided by the Land Titles Act (Canada) noting that the registration of the financing statement has lapsed, that the security agreement has been discharged, or that the collateral has been released, as the case may be, in whole or in part.

(6) Sections 44 to 49 apply mutatis mutandis in respect of financing statements registered under the Land Titles Act (Canada).

#### **Assignment by secured party**

**44.(1)** Where a financing statement is registered and the secured party assigns his interest, a financing statement disclosing the assignment may be registered if it sets forth in typed form at least

- (a) the name and address of the debtor,
- (b) the name and address of the secured party of record,
- (c) the name and address of the assignee, and
- (d) the registration number of the previously registered financing statement.

(2) Where an assignment under subsection (1) relates to only part of the collateral, the financing statement registered under subsection (1) shall contain a prescribed description of the assigned collateral.

(3) Where no financing statement has been registered with respect to a security interest and the secured party assigns his interest, a financing statement may be registered in which the assignee is disclosed as the secured party.

(4) After registration of a financing statement under this section, the assignee becomes the secured party of the record.

(5) A financing statement disclosing an assignment may be registered before or after an agreement to assign the security interest has been completed.

#### **Assignment and change of name by debtor**

45.(1) Where a security interest has been perfected by registration and the debtor has the consent of the secured party to transfer his interest in the collateral or part of the collateral, the transferee is deemed to be the debtor for the purposes of registration, and the security interest is unperfected as against any interest arising subsequent to the transfer and before the secured party registers a financing statement amending the original financing statement.

(2) Where a security interest has been perfected by registration and the secured party has notice that the debtor has transferred his interest in the collateral or part of the collateral, the security interest, as against any interest arising subsequent to the transfer and before the secured party registers a financing statement in respect of the transfer, is unperfected 15 days after the secured party has notice of the transfer.

(3) Where a security interest has been perfected by registration and the secured party has notice that the debtor has changed his name, the security interest, as against any interest arising subsequent to the change and before the secured party registers a financing statement in respect of the change, is unperfected 15 days after the secured party has notice of the change.

(4) Where a security interest has been perfected by registration and the secured party has notice that the debtor is about to transfer his interest in the collateral or part of the collateral, the security interest, as against any interest arising subsequent to the transfer and before the secured party registers a financing statement in respect of the transfer, is unperfected on the later of

- (a) the day on which the transfer takes place, and
- (b) 15 days after the secured party has such notice.

(5) Where a security interest has been perfected by registration and the secured party has notice that the debtor is about to change his name, the security interest, as against any interest arising subsequent to the change and before the secured party registers a financing statement in respect of the change, is unperfected on the later of

- (a) the day on which the debtor changes his name, and
- (b) 15 days after the secured party has such notice.

(6) This section does not have the effect of unperfected a security interest in collateral that is permitted by the regulations to be and is described by its serial number in a registered financing statement.

(7) A security interest that becomes unperfected under this section may thereafter be perfected by registering a financing statement or as otherwise provided in this Act.

#### **Amendments to financing statements**

46.(1) A financing statement disclosing an amendment to a previously registered financing statement may be registered at any time during the period that the previous registration is effective.

(2) Where an amendment adds collateral or alters the name or description of the debtor, it is effectively registered as to the additional collateral, or as to the altered name or description, only from the date of the registration of the financing statement disclosing the amendment.

(3) A financing statement releasing certain collateral described in a previously registered financing statement may be registered at any time during the period that the registration is effective, and it takes effect from the date of registration of the financing statement disclosing an amendment releasing collateral.

(4) A financing statement registered under this section must refer to the registration number of the financing statement that it amends.

### **Subordination**

47.(1) A financing statement disclosing a subordination of a security interest created or provided for by a security agreement in respect of which a financing statement has been registered under this Act may be registered at any time during the period that the registration of the subordinated interest is effective.

(2) Unless a contrary intention appears from the financing statement disclosing a subordination to it of a previously registered financing statement, it is effectively registered and takes effect only from the date of registration of the financing statement disclosing the subordination.

(3) A financing statement registered under this section must refer to the registration number of the financing statement that is subordinated to it.

### **Renewal**

48.(1) A financing statement disclosing a renewal of a previously registered financing statement may be registered at any time during the period that the previous registration is effective.

(2) A renewal must refer to the registration number of the number financing statement that it renews.

### **Removal of Records**

49. Financing statements or information provided on a financing statement as the case may require may be removed from the records of the registry

- (a) when the registration of the financing statement is no longer effective,
- (b) upon the receipt of a financing statement discharging or partially discharging the financing statement,
- (c) upon the failure of the secured party to register a financing statement disclosing a judge's order maintaining a financing statement under subsection 50(5), or
- (d) upon the receipt of a court order compelling the discharge or partial discharge of the financing statement.

**Discharge of security agreements**

50.(1) Where a financing statement is registered and the collateral or proceeds, as the case may be, is released or partially released, the secured party shall discharge the registration, wholly or partially, as the case may require, by registering a financing statement containing the prescribed information.

(2) Where a financing statement relating to a security interest in consumer goods is registered, the discharge of the registration under subsection (1) shall be effected by the secured party within one month after all the obligations under the security agreement creating the security interest are performed, unless the registration ceases to be effective within that month.

(3) No financing statement discharging a registration under subsection (1) shall be registered unless financing statements disclosing all assignments by the secured party or debtor are registered.

(4) Where a financing statement is registered and

- (a) all the obligations under the security agreement to which it relates are performed,
- (b) it is agreed to release part of the collateral in which a security interest is taken upon payment or performance of certain of the obligations under the security agreement, then upon payment or performance of such obligations, or
- (c) it purports to give the secured party a security interest in property of the debtor in which the secured party does not have, or is not entitled to claim, a security interest,

any person having an interest in the collateral which is the subject of the security agreement or financing statement may serve a written demand on the secured party, demanding a financing statement discharging the registration under subsection (1), and the secured party shall sign and deliver or send to the registry the financing statement together with financing statements discharging the registration of all assignments by the secured party or the debtor in respect of which such financing statements have not been registered, within 15 days after service of the demand.

(5) Where the secured party fails to deliver the required financing statements within 15 days after receipt of a demand under subsection (4), the person who has made the demand may require the registrar to serve a notice in writing on the secured party stating that the registration of the registered financing statement will be discharged or that a part of the collateral will be released, as the case may be, upon the expiration of 40 days after the day on which the registrar serves the notice on the secured party, unless in the meantime the secured party registers with the registrar a financing statement disclosing an order of a judge that the registration of the interest of the secured party be maintained, in whole or in part, as the case may be.

(6) The secured party may apply to a judge by originating application with notice of the application to the person demanding under subsection (4) and the registrar, and the judge may,

- (a) order that the registration of a financing statement be maintained in whole or in part with or without conditions and, subject to section 52, for any period of time that he considers just,



- (b) order that the registration of a financing statement be discharged in whole or in part, with or without conditions, or upon the provision of such security as he considers just, or
- (c) if he determines that the secured party had insufficient cause for not filing a financing statement disclosing a discharge of obligations under the security agreement, order the secured party to pay to the person demanding the discharge under subsection (4) the sum of \$200 or the amount of the loss, damage or inconvenience suffered by that person, whichever is greater.

(7) The demand or notice mentioned in subsection (4) or (5) may be served in accordance with subsection 65(1) or by registered or certified mail addressed to the post office address of the secured party as it appears on the security agreement or financing statement.

(8) Subsection (5) does not apply to a financing statement registered with respect to a security interest taken under a trust deed where the financing statement indicates that the security agreement with respect to which the financing statement was registered is a trust deed.

(9) Where the secured party under a registration under a trust deed fails to deliver the financing statements demanded in subsection (4), the person making the demand may apply to the Supreme Court, upon notice to all persons concerned, for an order directing that the financing statement be removed from the registry.

#### **Action against registrar**

**51.(1)** Subject to the other provisions of this section, any person who suffers loss or damage as a result of his reliance upon a prescribed registry document or printed search result that is incorrect because of an error or omission in the operation of the registry may bring an action against the registrar in the Supreme Court for recovery of damages, but no award of damages to any single claimant shall exceed the prescribed amount.

(2) No action for damages under this section lies against the registrar unless it is commenced within one year after the time of the person's having suffered the loss or damage.

(3) Any action for recovery of damages under this section brought by a person shall be brought as an action on behalf of all other persons who relied on the same document or result, and the judgment in the action, except to the extent that it relates to the finding of the fact of reliance by each person and provides for subsequent determination of the amount of damages suffered by each person, constitutes a judgment between each person and the registrar in respect of an error or omission in the operation of the registry.

(4) An action for recovery of damages under this section brought by a trustee under a trust deed or any person with an interest in a trust deed shall be brought as an action on behalf of all persons with interests in the same trust deed, and the judgment in the action, except to the extent that it provides for subsequent determination of the amount of damages suffered by each such person, constitutes a judgment between each such person and the registrar in respect of the error or omission.

(5) In an action brought by a trustee under a trust deed or by any person with an interest in a trust deed, proof that each person relied on the document or result is not necessary if it is established that the trustee relied on the document or result, but no person is entitled to recover damages under this section if he knew at the time he acquired his interest that the document or result relied on by the trustee was incorrect.

(6) The total of all claims for compensation paid under subsections (3) and (4) in any single action shall not exceed the prescribed amount.

(7) In proceedings under subsections (3) and (4) the Supreme Court may make any order it considers appropriate to give notice to members of the class.

(8) Except as provided by this section, no action shall be brought against the Government of the Yukon, the registrar or any officer or employee of the registry for any act or omission of the registrar or any officer or employee of the registry in respect of the discharge or purported discharge of any duty or function under this Act.

**Effect of registration**

52.(1) A registration under this Act is effective only from the time of the assignment to it of the registration number and the recording of the prescribed particulars of it in the registry or in the land titles office, as the case may be.

(2) Registration under this Act of a financing statement is effective for the prescribed length of time.

(3) Registration of a document in the registry does not constitute constructive notice or knowledge of its contents to third parties.

**PART 5  
RIGHTS AND REMEDIES ON DEFAULT**

**Application of this Part**

53.(1) Unless otherwise provided in this Part, this Part applies only to a security interest that secures payment or performance of an obligation.

(2) This Part does not apply to a transaction between a pledgor and a pawnbroker.

(3) The rights and remedies mentioned in this Part are cumulative.

(4) Where the debtor is in default under a security agreement, the secured party has, in addition to any other rights and remedies,

- (a) the rights and remedies provided in the security agreement except as limited by subsection (7),
- (b) the rights and remedies provided in this Part, and
- (c) when in possession, the rights, remedies and duties provided in section 16.

(5) The secured party may enforce the security interest by any method available in or permitted by law, and if the collateral is or includes documents of title, the secured party may proceed either as to the documents of title or as to the goods covered thereby, and any method of enforcement that is available with respect to the documents of title is also available, *mutatis mutandis*, with respect to the goods covered thereby.

(6) Where the debtor is in default under a security agreement, he has, in addition to the rights and remedies provided in the security agreement and any other rights and remedies, the rights and remedies provided in this Part and in section 16.

(7) Except as provided in sections 16, 59 and 60, no provision of section 16, or sections 57 to 61, to the extent that they give rights to the debtor and impose duties upon the secured party, shall be waived or varied, but the parties may by agreement determine the standards by which the rights of the debtor and the duties of the secured party are to be measured, so long as such standards are not manifestly unreasonable having regard to the nature of such rights and duties.

(8) Subject to any other Act or rule of law to the contrary, where a security agreement covers both real and personal property, the secured party may proceed under this Part as to the personal property or he may proceed as to both the real and the personal property, in which case this Part applies to the personal property only to the extent that it is not inconsistent with laws applicable to proceedings against real and personal property in a single action.

(9) A security interest does not merge merely because a secured party has reduced his claim to judgement.

#### **Receivers and receiver-managers**

54.(1) A security agreement may provide for the appointment of a receiver or a receiver-manager and, except as provided in this Act, prescribe his rights and duties.

(2) Upon the application of any person entitled to make an application under section 61, and after notice has been given to any person that the Supreme Court directs, the Supreme Court may

- (a) appoint a receiver or receiver-manager,
- (b) remove, replace or discharge a receiver or receiver-manager whether appointed by a court or pursuant to a security agreement,
- (c) give directions on any matter relating to the duties of a receiver or receiver-manager,
- (d) approve the accounts and fix the remuneration of a receiver or receiver-manager, and
- (e) make any order it thinks fit in the exercise of its jurisdiction over receivers and receiver-managers.

(3) Notwithstanding any other Act, and except as otherwise ordered by the Supreme Court, a receiver or receiver-manager appointed under a security agreement has the rights of a secured party under this Part and shall comply with this Part and section 16 as if he were a secured party.

(4) Unless the Supreme Court orders otherwise,

- (a) a receiver-manager is only required to comply with section 16 and sections 55 to 58 when he disposes of collateral otherwise than in the course of carrying on the business of the debtor, and
- (b) sections 59 and 60 do not apply whenever a receiver or receiver-manager has been appointed.

**Collection rights of secured party**

55.(1) Where so agreed and in any event upon default under a security agreement, a secured party is entitled

- (a) to notify any debtor on an intangible or chattel paper or any obligor on an instrument to make payment to him whether or not the assignor was theretofore making collections on the collateral, and
- (b) to take control of any proceeds to which he is entitled under section 26.

(2) A secured party who by agreement is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor and who undertakes to collect from the debtors on intangibles or chattel paper or obligors on instruments may deduct his reasonable expenses of realization from the collections.

**Seizure on default**

56. Subject to sections 35 and 36, upon default under a security agreement,

- (a) the secured party has, unless otherwise agreed, the right to take possession of the collateral by any method permitted by law,
- (b) if the collateral is equipment and the security interest is perfected by registration, the secured party may render such equipment unusable without removal thereof from the debtor's premises, and the secured party shall thereupon be deemed to have taken possession of such equipment, and
- (c) the secured party may dispose of collateral under section 57 on the debtor's premises.

**Disposal of collateral**

57.(1) Upon default under a security agreement, the secured party may dispose of any of the collateral in its condition either before or after any repair, processing or preparation for disposition, and the proceeds of the disposition shall be applied consecutively to

- (a) the reasonable expenses of seizing, holding, repairing, processing, preparing for disposition and disposing of the collateral and any other reasonable expenses incurred by the secured party, and
- (b) the satisfaction of the obligation secured by the security interest of the party making the disposition.

(2) Collateral may be disposed of

- (a) by public or private sale at any time of day or place,
- (b) as a whole or in commercial units or parts, or
- (c) if the security agreement so provides, by lease or by deferred payment.

(3) The secured party may delay disposition of the collateral in whole or in part for such period of time as is commercially reasonable.

(4) Not less than 20 days prior to disposition of the collateral, the secured party shall serve a notice on

- (a) the debtor or any other person who is known by the secured party to be the owner of the collateral,
- (b) any creditor or person with a security interest in the collateral whose interest is subordinate to that of the secured party and who has registered a financing statement indexed in the name of the debtor or according to the serial number of the collateral, when it is permitted by the regulations for registration, and
- (c) any other person with an interest in the collateral who has delivered a written notice to the secured party of his interest in the collateral prior to the date of the service of the notice of the debtor.

(5) The notice mentioned in subsection (4) shall contain

- (a) a description of the collateral sufficient to enable it to be identified,
- (b) a statement as to the amount required to satisfy the obligation secured by the security interest,
- (c) a statement as to the sums actually in arrears, exclusive of the operation of any acceleration clause in the security agreement, and a brief description of any other provision of the security agreement for the breach of which the secured party intends to dispose of the collateral,
- (d) a statement as to the amount of the applicable expenses referred to in paragraph (1)(a) or, in a case where the amount of such expenses has not been determined, a reasonable estimate,
- (e) a statement, where applicable, that upon payment of the amounts due under paragraphs (b) and (d) the debtor or other person may redeem the collateral,
- (f) a statement, where applicable, that upon payment of the sums actually in arrears or the curing of any other default, as the case may be, together with the amounts due under paragraph (1)(a), the debtor may reinstate the security agreement,
- (g) a statement that unless the collateral is redeemed or the security agreement is reinstated the collateral will be disposed of and the debtor may be liable for any deficiency, and
- (h) a statement as to the date, time and place of any public sale, or the date after which any private disposition of the collateral is to be made.

(6) A notice under subsection (4) given by a receiver or receiver-manager need contain only

- (a) a description of the collateral by type or kind, and
- (b) a statement as to the date, time and place of any public sale, or the date after which any private disposition of the collateral is to be made.

(7) Where the notice required in subsection (4) is served on any person other than the debtor, it need not contain the information specified in paragraphs (5)(c), (f) and (g), and where the debtor is not entitled to reinstate the security agreement, the notice to the debtor need not contain the information specified in paragraphs (5)(c) and (f).

(8) No statement mentioned in paragraph (5)(g) shall make reference to any liability on the part of the debtor to pay a deficiency if under any Act or rule of law the secured party does not have the right to collect a deficiency from the debtor.

(9) The secured party may purchase the collateral or any part thereof only at a public sale and only for a price that bears a reasonable relationship to market value.

(10) When a secured party disposes of collateral by sale to a bona fide purchaser for value who takes possession of it, the purchaser acquires the collateral free from the interests of the debtor and from any interest subordinate to that of the secured party, whether or not the requirements of this section have been complied with by the secured party, and all obligations secured by such subordinate interests are deemed to be performed for the purposes of section 50.

(11) A person who is liable to a secured party under a guarantee, endorsement, covenant, repurchase agreement, or the like and who receives a transfer of collateral from the secured party or is subrogated to his rights has thereafter the rights and duties of the secured party, and such a transfer of collateral is not a disposition of the collateral.

(12) The notice mentioned in subsection (4) is not required where

- (a) the collateral is perishable,
- (b) the collateral will decline substantially in value if not disposed of immediately after default,
- (c) the cost of care and storage of the collateral is disproportionately large in relation to its value,
- (d) due to market conditions, a delay in disposing of the collateral would likely reduce the amount recovered from its disposition,
- (e) for any other reason, a judge of the Supreme Court, on ex parte application, is satisfied that a notice is not required, or
- (f) after default, every person entitled to receive a notice of disposition under subsection (4) consents in writing to the immediate disposition of the collateral.

(13) The notice required in subsection (4) may be served in accordance with subsection 65(1), or in the case of a person who has registered a financing statement, by registered mail addressed to his post office address as it appears on the statement or on the security agreement.

### **Surplus or deficiency**

**58.(1)** Where a security agreement secures an indebtedness and the secured party has dealt with the collateral under section 55 or has disposed of it in accordance with section 57 or otherwise, he shall account for and pay over any surplus consecutively to

- (a) any person who has a subordinate security interest in the collateral who registers a financing statement indexed in the name of the debtor or according to the serial number of the collateral, when it is permitted by the regulations for registration, prior to the distribution of the proceeds,
- (b) any other person who has an interest in the surplus, if that person has delivered a written demand for it to the secured party prior to distribution of the proceeds, and
- (c) the debtor.

(2) The secured party is relieved from liability in respect of any sums paid by him in accordance with subsection (1).

(3) The secured party may request a person who has a subordinate security interest or a person who has delivered a written demand to furnish him with proof of that person's interest, and unless the person furnishes such proof within ten days after the secured party's demand, the secured party need not pay over any portion of the surplus to him.

(4) Unless otherwise agreed, or unless otherwise provided in any Act, the debtor is liable for any deficiency.

(5) If the security interest secures an indebtedness, the secured party shall, if requested in writing by the debtor or any other person with an interest in the collateral, provide a statement of the results of any dealing with the collateral under section 55 or 56 or a disposition of the collateral under section 57 or otherwise.

(6) For each statement under subsection (5), the secured party may require payment of the prescribed charges in advance, but the debtor is entitled to a statement without charge.

#### **Retention by secured party**

59.(1) After default, the secured party in possession of the collateral may propose to retain the collateral in satisfaction of the obligations secured, and shall serve a notice of the proposal on

- (a) the debtor or any other person who is known by the secured party to be the owner of the collateral,
- (b) any creditor or person with a security interest in the collateral whose interest is subordinate to that of the secured party and who has registered a financing statement indexed in the name of the debtor or according to the serial number of the collateral, when it is permitted by the regulations for registration, and
- (c) any other person with an interest in the collateral who has delivered a written notice to the secured party of his interest in the collateral prior to the date of the service of the notice of the debtor.

(2) If any person who is entitled to notice under subsection (1), and whose interest in the collateral would be adversely affected by the secured party's proposal, delivers to the secured party a written objection within 15 days after service of the notice, the secured party shall dispose of the collateral under section 57.

(3) If no objection is made, the secured party in possession is, at the expiration of the 15 day period or periods mentioned in subsection (2), deemed to have elected irrevocably to retain the collateral in full satisfaction of the obligations secured, and thereafter is entitled to hold or dispose of the collateral free from all rights and interests therein of

- (a) any person entitled to notice under paragraph (1)(b) who has been served with such notice, and
- (b) any person entitled to notice under paragraph (1)(a) or (c) whose interest is subordinate to that of the secured party and who has been served with such notice.

(4) The secured party may require any person who has made an objection to his proposal to furnish him with proof of that person's interest in the collateral and, unless the person furnishes proof within ten days of the secured party's demand, the secured party may proceed as if he had received no objection from such person.

(5) Upon application by a secured party, and after notice to all persons affected, a judge may determine that an objection to the proposal of a secured party is ineffective on the ground that

- (a) the person made the objection for a purpose other than the protection of his interest in the collateral or the proceeds of a disposition of the collateral, or
- (b) the market value of the collateral is less than the total amount owing to the secured party and the costs of the disposition.

(6) When a secured party in possession disposes of collateral to a bona fide purchaser for value who takes possession of it, the purchaser acquires the collateral free from any interest subordinate to that of the secured party, whether or not the requirements of this section have been complied with by the secured party, and all obligations secured by such subordinate interests are deemed to be performed for the purposes of section 50.

(7) The notice required under subsection (1) may be served in accordance with subsection 65(1) or, in the case of service on a person who has registered a financing statement, by registered mail addressed to his post office address as it appears on the statement or the security agreement.

#### **Redemption and reinstatement**

**60.(1)** Unless he has after default otherwise agreed in writing,

- (a) any person entitled to receive a notice under subsection 57(4) may redeem the collateral by tendering fulfillment of all obligations secured by the collateral, or
- (b) the debtor may reinstate the security agreement by paying the sums actually in arrears, exclusive of the operation of any acceleration clause, or by curing any other default by reason whereof the secured party has taken possession of the collateral,

upon payment of a sum equal to the reasonable expenses incurred by the secured party in retaking, holding, repairing, processing, preparing the collateral for disposition and arranging for its disposition, and any other reasonable expenses incurred by the secured party.

(2) A security agreement may be reinstated only once in its life, and then only if the payment terms under the agreement are less than six months in arrears.

(3) Redemption under paragraph (1)(a) or reinstatement under paragraph (1)(b) may occur at any time before the secured party

- (a) has disposed of the collateral,
- (b) has contracted for such disposition under section 57, or
- (c) is deemed to have elected irrevocably under section 59 to retain the collateral in satisfaction of the obligation.

#### **Non-compliance by secured party**

**61.** Upon application by a debtor, a creditor of a debtor, a secured party, any person who has an interest in collateral that may be affected by an order under this section or a receiver or a receiver-manager, whether appointed by a court or pursuant to a security agreement, and after notice has been given to any person that the Supreme Court directs, the Supreme Court may

- (a) make any order, including binding declarations of right and injunctive relief, that is necessary to ensure compliance with this Part or section 16,



- (b) give directions to any party regarding the exercise of his rights or discharge of his obligations under this Part or section 16,
- (c) relieve any party from compliance with the requirement of this Part or section 16, but only on terms that are just and reasonable for all parties concerned,
- (d) stay enforcement of rights provided in this Part, section 16 or the security agreement on such terms as the Supreme Court considers just and reasonable,
- (e) make any order necessary to ensure protection of the interests of any person in the collateral, or
- (f) make an order requiring a receiver or receiver-manager, or a person by or on behalf of whom he is appointed, to make good any default in connection with the receiver's or receiver-manager's custody, management or disposition of the collateral of the debtor or to relieve such person from any default on such terms as the Supreme Court thinks fit, and to confirm any act of the receiver or receiver-manager.

## PART 6

### MISCELLANEOUS

#### **Exercise of rights and duties**

62.(1) All rights, duties or obligations arising under a security agreement, under this Act or under any other applicable law, shall be exercised in good faith and in a commercially reasonable manner.

(2) Where a person fails to discharge any duties or obligations imposed upon him by this Act, any person has a right to recover loss or damage that he suffered and that was reasonably foreseeable as liable to result from such failure.

(3) Except as otherwise provided in this Act, any provision in any agreement that purports to exclude any duty imposed on a person under this Act or to exclude or limit the liability of a person for failure to discharge duties imposed upon him by this Act is void.

(4) In assessing damages under this Act, the Supreme Court may consider as a mitigating factor evidence that the defendant employed reasonable diligence and took all reasonable precautions to discharge the duties imposed upon him by this Act.

#### **Other laws**

63.(1) The principles of law and equity, including the law merchant, the law relating to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion and mistake, and other validating or invalidating rules of law, supplement this Act and continue to apply.

(2) Except as provided by this or any other Act a security agreement is effective according to its terms.

**Minor defects and Rules of Court**

64.(1) The validity or effectiveness of a document to which this Act applies is not affected by reason of a defect, irregularity, omission or error in the document or in the execution or registration of the document unless the defect, irregularity, omission or error is seriously misleading.

(2) Failure to provide a description required by this Act in relation to any type of collateral in a document does not affect the validity or effectiveness of the document as it relates to other collateral.

(3) Unless otherwise provided by this Act or the regulations, the Rules of Court apply to proceedings under this Act.

**Service of documents**

65.(1) Where under this Act a notice or any other written matter may be or is required to be served, it may be served on

- (a) an individual, by personal service or by registered or certified mail addressed to him at his residence or place of business and, if he has more than one place of business, at any one of his places of business,
- (b) a partnership,
  - (i) by personal service upon any one or more of the general partners or any person having, at the time of service, control or management of the partnership business at the principal place of business of the partnership within the Yukon, or
  - (ii) by registered or certified mail mailed to the post office address of the principal place of business of the partnership within the Yukon and addressed to the partnership, to any one or more of the general partners, or to any person having control or management of the partnership business at that place of business at the time of service,
- (c) a body corporate, by delivery to the registered office of the body corporate or by registered or certified mail addressed to the body corporate at its registered office, and
- (d) an extra-territorial body corporate, by delivery to the attorney for the body corporate appointed under section 278 or 286 of the Business Corporations Act, or section 44 of the Societies Act, or by registered or certified mail addressed to the body corporate at the address of such attorney.

(2) Service by registered or certified mail is effected when the addressee actually receives a notice or any other written matter, or upon the expiry of four days after the day of mailing, whichever is earlier.

(3) For the purposes of this Act, a person knows or has notice when,

- (a) in the case of an individual, information comes to his attention under circumstances in which a reasonable person would take cognizance of it,
- (b) in the case of a partnership, information has come to the attention of one or more of the partners or of a person having control or management of the partnership business under circumstances in which a reasonable person would take cognizance of it, and

- (c) in the case of a body corporate, information has come to the attention of
  - (i) a managing director or officer of the corporation, or
  - (ii) a senior employee of the corporation with responsibility for matters to which the information relates,
 under the circumstances in which a reasonable person would take cognizance of it, or the information in writing has been delivered to the registered office of the body corporate or attorney for an extra-provincial body corporate appointed under section 278 or 286 of the Business Corporations Act or section 44 of the Societies Act.

(4) Where a notice or any other written matter may be served by registered or certified mail to the post office address as it appears on a registered financing statement or security agreement and no financing statement was required to be registered and no sufficient address appears on the security agreement, the notice or other written matter shall be served in accordance with subsection (1).

#### **Extension of time**

**66.** Where in this Act other than sections 4, 5, 6 and 12, Part 3, Part 4 and this Part, any time is prescribed within which or before which any act or thing must be done, the Supreme Court on application may, upon such terms, conditions and notice, if any, as it may order, extend the time for doing the act or thing.

#### **Regulations**

**67.** The Commissioner in Executive Council may make such regulations as he deems necessary

- (a) prescribing the duties of the registrar;
- (b) prescribing business hours for the office;
- (c) respecting the registration system including the indexing of collateral by serial number;
- (d) requiring the payment of fees and prescribing amounts thereof;
- (e) governing practice and procedure applicable to proceedings under this Act;
- (f) prescribing forms and providing for their use;
- (g) respecting the signing of financing statements;
- (h) respecting the length of time that registration of a financing statement is effective;
- (i) authorizing the registrar to accept for registration financing statements that are not in typed form, or that are not in the prescribed form;
- (j) exempting from the operation of this Act leases of specified types or classes of goods by specified or classes of persons;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

#### **Application of the Act**

**68.(1)** This Act applies

- (a) to every security agreement made after May 31, 1982, and
- (b) to every prior security interest as defined in subsection 69(1), that has not been validly terminated, completed, consummated or enforced in accordance with the prior law before June 1, 1982.

(2) The validity of a prior security interest as defined in section 69 is governed by the prior law.

(3) The order of priorities between security interests is determined by prior law if all of the competing security interests arose under security agreements entered into before June 1, 1982.

(4) The order of priorities between a security interest and the interest of a third party is determined by prior law if the third party interest arose before this section comes into force and the security interest arose under a security agreement entered into before June 1, 1982.

(5) In this section, "prior law" means the law in force on May 31, 1982.

(6) This Act applies to security interests created under

- (a) renewal, extension, refinancing or consolidation agreements made after May 31, 1982, and
- (b) revolving credit transactions entered into before and continuing after May 31, 1982.

### **Prior security interests**

**69.**(1) In this section,

"prior security interest" means an interest created, reserved or provided for by a security agreement or other transaction validly created or entered into, before June 1, 1982, that is a security interest within the meaning of this Act and to which this Act would have applied if it had been in force at the time the security agreement or other transaction was entered into;

"prior registration law" means the Assignment of Book Debts Act, the Bills of Sale Act, the Conditional Sales Act, section 102 of the Companies Act, and the Corporation Securities Registration Act.

(2) A prior security interest that, on the expiration of May 31, 1982, is covered by an unexpired filing or registration under a prior registration law shall be deemed to be registered and perfected under this Act and, subject to this Act, such registration continues the effect of the prior filing or registration for the lesser of the unexpired portion of the filing or registration period and three years from June 1, 1982, and the effect of the prior filing or registration may be further continued by the registration of a financing statement under this Act where the security interest could be perfected by registration if it were to arise after May 31, 1982.

(3) A prior security interest validly created, reserved or provided for under any prior law that gave that interest the priority of a perfected security interest without filing or registration under any prior registration law and without the secured party taking possession of the collateral is perfected within the meaning of this Act as of the date the security interest attached, and that perfection continues for three years from June 1, 1982, without registration under this Act, after which it becomes unperfected unless otherwise perfected under this Act.

(4) The perfection of a prior security interest that, on the expiration of May 31, 1982, is covered by an unexpired filing or registration under a prior registration law, and for the perfection of which under this Act no registration of a financing statement is required, continues under this Act.

(5) A prior security interest that, on the expiration of May 31, 1982, could have been but is not covered by a filing or registration under a prior registration law may, subject to this Act, be perfected by the registration of a financing statement under this Act.

(6) A prior security interest that, on the expiration of May 31, 1982, could be but is not perfected under the prior law by the secured party taking possession of the collateral may, if permitted by this Act, be perfected by possession in accordance with this Act.

(7) A prior security interest that, under this Act, may be perfected by the secured party taking possession of the collateral is perfected for the purposes of this Act by such possession, whether such possession occurs before or after June 1, 1982 and notwithstanding that the prior law did not permit the perfection of the security interest by such possession.

(8) A prior security interest that, on the expiration of May 31, 1982, could have been but is not covered by a filing or registration under a prior registration law and that, under this Act, may be perfected without registration of a financing statement and without possession of the collateral by the secured party, is perfected under this Act if all the other conditions for the perfection of a security interest are satisfied.

(9) The validity of a lien that exists on the expiration of May 31, 1982, under the Garage Keepers Lien Act, the Mechanics Lien Act or the Warehouse Keepers Lien Act shall be determined as if this Act had not come into force.

(10) No action lies against any person for damages arising out of the non-perfection or non-registration, under this section, of a prior security interest, whether or not it is covered by a registration under a prior registration law, except for damages arising out of a breach of a duty of care assumed by the person in instructions received by him, or in an opinion expressed by him, after May 31,

#### **Other Acts**

**70.(1)** Where there is conflict between this Act and a provision of the Consumers Protection Act, the provision of the Consumers Protection Act prevails insofar as it affects security interests in consumer goods.

(2) Where there is conflict between this Act and a provision of the Distress Act, the Exemptions Act or the Landlord and Tenant Act, the other Act prevails.

(3) Except as provided in subsections (1) and (2), in all other cases of conflict between this Act and the Consumers Protection Act or any other general or special Act, this Act prevails.

#### **Crown**

**71.** The Crown is bound by this Act.

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# CHAPTER 131

## PHARMACISTS ACT

### Interpretation

1. In this Act,

“drug” means any substance listed or described in the prescribed schedule and includes any substance or mixture of substances manufactured, sold or represented for use in

- (a) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state or the symptoms thereof, or
- (b) restoring, correcting or modifying organic functions in humans or animals;

“licence” means a valid licence issued under this Act;

“narcotic” means a drug at any time listed or described in the Schedule to the Narcotic Control Act (Canada);

“register” means the pharmacists register referred to in section 2;

“veterinary surgeon” means a person who

- (a) is registered as a veterinary surgeon under the law of any province, or
- (b) is a veterinary inspector appointed under the Animal Contagious Diseases Act (Canada).

### Pharmacists register

2. The Executive Council Member shall keep a register called the pharmacists register, shall enter therein the names, addresses and qualifications of all persons who are pursuant to this Act entitled to be registered in the register, and he may issue licences to such persons.

### Qualifications for registration

3. A person who

- (a) has the right to practise the profession of pharmacist in any province, or
- (b) is a medical practitioner,

and who pays to the Executive Council Member the prescribed fee is entitled to be registered in the register.

### Licence fee

4. Every person who is registered in the register shall pay to the Executive Council Member at the time his name is registered in the register and subsequently on or before March 31 in each year, the prescribed annual licence fee.

### Expiration of licence

5. A licence expires on March 31 next following the day upon which it comes into force.

### Permits

6.(1) The Executive Council Member may issue a permit to practise the profession of pharmacist in such parts of the Yukon upon payment of such fees and upon such terms and conditions as the Executive Council Member may specify in the permit to any person who

- (a) has completed at least a four year course of study in pharmaceutical chemistry at a school of pharmaceutical chemistry of recognized standing,

- (b) has received a diploma or certificate of qualification from such school, and
- (c) satisfies the Executive Council Member that he is the person to whom the diploma or certificate was issued, is of good character and is qualified from the standpoint of his professional proficiency to practise the profession of pharmacist.

(2) A permit issued under this section may be for such period of time as the Commissioner in Executive Council may specify in the permit and may be renewed from time to time, but no person shall be permitted to practise the profession of pharmacist pursuant to this section

(3) A person who holds a permit issued under this section shall, when practising the profession of pharmacist pursuant to this section, be deemed to be the holder of a licence. 1973 (1st) c. 16, s. 1.

### **Practice of pharmaceutical chemistry**

7. No person is entitled to practise the profession of pharmacist nor to recover a fee, reward or remuneration for medicines, materials or appliances provided by him in practising the profession of pharmacist unless he holds a licence under this Act at the time the medicines, materials or appliances are provided.

### **Right to practise and to recover fees**

8. A person who holds a licence is entitled to practise the profession of pharmacist in the Yukon and to bring action before a judge for the recovery of reasonable charges for any medicines, materials or appliances supplied by him.

### **Limitation of actions for malpractice**

9. No pharmacist is liable to an action for negligence or malpractice unless the action is commenced within one year from the day when, in the matter complained of, the professional services terminated.

### **Drugs requiring a prescription**

10. No pharmacist shall, except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon, supply any drug or preparation thereof listed or described in the prescribed schedule of drugs for which such a prescription is required.

### **Poisons**

11.(1) Subject to subsection (2), no pharmacist shall, except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon, supply any drug or preparation thereof listed or described in the prescribed schedule of poisons.

(2) A pharmacist may supply a drug referred to in subsection (1) or any preparation thereof to an adult person known to him or introduced to him by an adult person known to him if the pharmacist enters in a poison register kept exclusively for the purpose

- (a) the date of the sale,
- (b) the name and amount of the drug or preparation,
- (c) the declared purpose for which the drug or preparation is required,
- (d) the signature of the purchaser,



- (e) the address of the purchaser,
- (f) the signature of the person, if any, who introduced the purchaser to the pharmacist, and
- (g) the signature of the pharmacist.

(3) The poison register mentioned in subsection (2) shall during the business hours of a pharmacist be open to the inspection of any member of the Royal Canadian Mounted Police or any person authorized by the Executive Council Member to inspect that register.

#### **Drugs requiring special labelling**

12. No pharmacist shall, except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon supply any drug or preparation thereof listed or described in the prescribed schedule of drugs requiring special labelling unless, prior to delivery, it is labelled with

- (a) the common name of the drug or preparation,
- (b) the design of skull and cross-bones,
- (c) the word ‘‘poison’’ in large, bold type,
- (d) the name and address of the pharmacist supplying the drug or preparation, and
- (e) the initials, written in ink, of the pharmacist supplying the drug or preparation.

#### **Storage of drugs**

13. A pharmacist shall not store any drug listed or described in the prescribed schedules mentioned in sections 10, 11 and 12 in the portion of his premises where the public is admitted.

#### **Offences and penalties**

14.(1) A person who is not the holder of a licence and who

- (a) publicly or privately practises the profession of a pharmacist,
- (b) supplies any drug or preparation thereof,
- (c) appends to his name the title pharmacist, pharmaceutical chemist, dispensing chemist, druggist, dispensing druggist, or apothecary or any word indicative of any such title or uses any substitution of abbreviation thereof,
- (d) holds himself out in any way to be a duly qualified pharmacist, or
- (e) assumes any title or description implying, or designed to lead the public to believe, that he is duly qualified to practise as a pharmacist,

commits an offence.

(2) A person who violates any provision of this Act commits an offence and is liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

#### **Time for prosecution**

15. In the case of an offence under this Act a complaint shall be made or the information laid within one year from the time when the matter of the complaint or information arose.

**Onus of proof**

**16.** In a prosecution for an offence under this Act the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid.

**INVESTIGATION AND REMOVAL****Removal for non-payment of fees**

**17.(1)** Subject to subsection (2), the Executive Council Member shall remove from the register the name of a person registered therein who fails to comply with the provisions of this Act with respect to licence fees, and the licence issued to that person is invalid until such time as he is again registered in the register.

(2) Where reasons satisfactory to the Executive Council Member are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Executive Council Member may grant an extension of time for payment of fees before allowing the name of a person on whose behalf they are paid to be struck off the register, but he shall in no case grant an extension of time exceeding 60 days.

(3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored to the register if he pays a fee of \$10 in addition to the fee in respect of which his name was removed from the register.

**Board of inquiry**

**18.(1)** The Commissioner in Executive Council may appoint two or more persons to act as a board of inquiry for the purpose of investigating any complaint made against a person practising as a pharmacist with respect to an alleged contravention of this Act or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a person practising as a pharmacist.

(2) Without restricting the generality of the expression "improper conduct", a pharmacist is guilty of improper conduct who

- (a) is convicted of an offence against an Act of Parliament relating to the sale of narcotics, or
- (b) is shown to be addicted to the excessive use of intoxicating liquors or narcotics.

(3) A board of inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power

- (a) to summon and bring before it any person whose attendance it considers necessary to enable the board properly to inquire into the matter complained of,
- (b) to swear and examine all such persons under oath,
- (c) to compel the production of documents, and
- (d) to do all things necessary to provide a full and proper inquiry.

(4) A board of inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding \$500.

(5) Where the board of inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Executive Council Member out of the deposit for security mentioned in subsection (4) such portion of the costs of the inquiry, or to the person complained against any portion of his costs, it deems advisable, and where the board does not so find or where there is any balance of the deposit remaining, the deposit or balance thereof shall be returned to the person who deposited it.

(6) A majority of the members of a board of inquiry is a quorum.

(7) A board of inquiry shall after investigation of a complaint pursuant to this section make a finding, and shall immediately report its finding to the Executive Council Member, and where it finds that the person complained against is guilty of a contravention of this Act or of malpractice or of infamous, disgraceful or improper conduct may, in its report to the Executive Council Member, recommend that such person be

- (a) reprimanded,
- (b) fined in an amount named by the board, such amount not to exceed \$500;
- (c) struck off the register and his licence cancelled, or
- (d) struck off the register and his licence suspended for a definite period named by the board.

(8) The board of inquiry shall, at the time it sends its report to the Executive Council Member pursuant to subsection (7), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in the report.

(9) Every person who

- (a) fails, without valid excuse, to attend an inquiry under this section,
- (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
- (c) at an inquiry under this section
  - (i) refuses to be sworn or to affirm, or to declare, as the case may be, or
  - (ii) refuses to answer any proper question put to him by the board of inquiry,

commits an offence.

### **Appeal**

**19.(1)** A person against whom a finding has been made by a board of inquiry may, within 30 days after the finding has been made, appeal from the finding to a judge.

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at the time and in the manner he deems just and he may, by order, quash, alter or confirm the finding of the board of inquiry.

### **Action on recommendation by board or court order**

**20.(1)** Where a pharmacist has been found guilty of a contravention of this Act, of malpractice or of infamous, disgraceful or improper conduct by a board of inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Executive Council Member shall, after receiving the report from the board, impose the penalty recommended by it, and

- (a) in the case of a reprimand, reprimand the pharmacist in writing and note the reprimand in the register,
- (b) in the case of a fine, make an order fining the pharmacist which order shall be filed in the appropriate court and have the same effect as an order of that court,
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the practitioner struck off the register and cancel his licence, and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the practitioner struck off the register and suspend his licence for the time the board has recommended.

(2) Where a judge on appeal confirms or alters the finding of a board of inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Executive Council Member and carried out by him in the manner provided by subsection (1).

#### **Application for reinstatement**

21.(1) A pharmacist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 20 may,

- (a) where he has not taken any appeal from the finding, within one year after the date of the finding of the board of inquiry, apply to the Executive Council Member to have his name restored to the register, or
- (b) where he has appealed from the finding, within one year after the date of an order under subsection 19(2), apply to a judge for an order directing the Executive Council Member to have his name restored to the register.

(2) A judge may, upon application under subsection (1), order the Executive Council Member to reinstate the pharmacist on the register and renew his licence and restore his rights and privileges in the manner and upon any conditions the judge may decide.

(3) The Executive Council Member shall, upon receiving an order under subsection (2) to do so, reinstate the pharmacist on the register and renew his licence and restore his rights and privileges in the manner and upon the conditions the order directs.

#### **Saving provision**

22. Nothing in this Act shall be deemed to prohibit or prevent

- (a) a medical practitioner from exercising a privilege conferred by any Act relating to the practice of medicine and surgery in the Yukon,
- (b) any person from supplying goods of any kind to a pharmacist, medical practitioner or dentist,
- (c) a medical practitioner or dentist from supplying a patient with any medicine as he may require,
- (d) an executor, administrator or trustee of the estate of a deceased pharmacist from continuing the business of the deceased if the business is conducted by a pharmacist,

- (e) a member of the Canadian Armed Forces or of a visiting force as defined in the Visiting Forces Act (Canada) from doing anything in the course of his duties as a member of such a force,
- (f) any person from supplying any drug listed or described in the regulations for the purposes of this paragraph,
- (g) any person from supplying any drug listed or described in the regulations for the purposes of this paragraph at a place that is at least five miles distant from a place where a pharmacist is carrying on business, or
- (h) the manufacturing or supplying of any preparation registered under the Proprietary or Patent Medicine Act (Canada).

**Regulations**

**23.(1)** The Commissioner in Executive Council may make such regulations and prescribe such fees as he deems necessary to carry out the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Commissioner in Executive Council may make regulations

- (a) establishing a schedule of drugs and preparations thereof for the supply of which a prescription is required for the purposes of section 10;
  - (b) establishing a schedule of poisons and preparations thereof for the purposes of section 11;
  - (c) establishing a schedule of drugs and preparations thereof for which special labelling is required for the purposes of section 12;
  - (d) establishing a schedule of drugs and preparations thereof that may be supplied to any person for the purposes of paragraph 22(f);
  - (e) establishing a schedule of drugs and preparations thereof that may be supplied by any person in any place at least five miles distant from a place where a pharmacist is carrying on business for the purposes of paragraph 22(g).
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# CHAPTER 132

## PIONEER UTILITY GRANT ACT

### Interpretation

1. In this Act, “principal residence” means the normal place of residence in the Yukon of an applicant.

### Pioneer grant

2.(1) The Executive Council Member shall pay a pioneer grant in the amount prescribed by the Commissioner in Executive Council each year to every applicant who qualifies for a grant pursuant to this Act.

(2) It shall be a condition of any payment pursuant to this Act that an appropriation has been made by the Legislature.

### Qualifications for grant

3.(1) To qualify for a pioneer grant pursuant to this Act, an applicant shall

- (a) have attained the age of 65 years or more on December 31 of the year in respect of which the pioneer grant is to be paid,
- (b) have, or have a spouse living with him or her who has, owned or rented his or her principal residence for the year in respect of which the pioneer grant is to be paid, and
- (c) during the year in respect of which the application is made have occupied his or her principal residence for a total period of not less than 183 days, 90 of which days occurred during the winter months.

(2) In this section the expression “winter months” means the months of January, February, March, October, November and December.

(3) Notwithstanding subsection (1), an applicant shall be deemed to qualify for a pioneer grant under this Act where

- (a) the applicant is the surviving spouse of a person who had qualified or, but for his or her death in the year in respect of which the pioneer grant is to be paid, would have qualified for a pioneer grant under this Act, and
- (b) the applicant is 60 years of age or more on or before December 31 of the year in respect of which the pioneer grant is to be paid.

(4) An applicant who is deemed to have qualified for a pioneer grant pursuant to this Act in any one year shall be deemed to qualify as an applicant for a pioneer grant in any subsequent year notwithstanding that he or she has not attained the age of 65 years, if the requirements of paragraphs 3(1)(b) and (c) are satisfied.

**Time of application**

4.(1) Subject to subsection (3), every application for a pioneer grant shall be made to the Executive Council Member in the prescribed form on or after October 1 of the year for which the grant is to be made, but not later than January 31 of the year following for which the grant is to be made.

(2) The Executive Council Member may require proof or corroboration of any of the particulars required to be provided with an application.

(3) The Executive Council Member may extend the time for the submission of an application in respect of any applicant who satisfies the Executive Council Member that, for reasons beyond the control of the applicant, the application could not be made within the period of time referred to in subsection (1).

**One grant per year**

5.(1) An applicant who is qualified to receive a pioneer grant pursuant to this Act shall not be eligible to receive more than one pioneer grant in any one year.

(2) Only one pioneer grant is payable in any one year in respect of a principal residence.

**No assignment**

6. No pioneer grant is capable of being assigned or garnisheed, and the Crown is not bound by any purported assignment.

**Where no grant payable**

7.(1) Notwithstanding section 3, no pioneer grant shall be paid where the principal residence of the applicant is subsidized by or benefits from any ongoing program of the Government of Canada or the Government of the Yukon which provides for reduced cost of shelter or occupancy, other than

- (a) a grant pursuant to the Home Owners Grant Act,
- (b) any benefits under utility equalization programs,
- (c) a program administered by a municipality, or
- (d) any program listed in the regulations.

(2) Notwithstanding subsection (1), no applicant shall be deemed to be ineligible for the pioneer grant merely on the grounds of receiving any other grant of universal application.

**Regulations**

8. The Commissioner in Executive Council may make regulations

- (a) prescribing the form and manner of completing any application;
- (b) prescribing the amount of the pioneer grant;
- (c) specifying any information which may be required in respect of the application;
- (d) prescribing a schedule listing programs which provide for reduced cost of shelter or occupancy.



**Saving provision**

9. An applicant who is deemed to have qualified for a pioneer grant under section 3 at any time before January 1, 1981, shall be deemed to qualify as an applicant in any subsequent year, as long as the requirements of paragraphs 3(1)(b) and (c) are satisfied, notwithstanding that the applicant has not attained the age of 65 years or is the surviving spouse of a person who died before January 1, 1981.

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# CHAPTER 133

## PLEBISCITE ACT

### **Plebiscite may be held**

1.(1) Whenever it appears to the Commissioner in Executive Council that an expression of opinion of the public is necessary or desirable on any matter, the Commissioner in Executive Council may direct by regulation that a plebiscite be held.

(2) A direction under subsection (1) shall not be made unless funds to pay for the cost have been appropriated.

### **Regulations**

2. The Commissioner in Executive Council may make regulations

- (a) prescribing forms required under the Act;
  - (b) defining the public for the purpose of a plebiscite;
  - (c) prescribing the procedure to be followed in connection with the taking of a plebiscite;
  - (d) generally for carrying out the provisions of this Act.
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# CHAPTER 134

## POUNDS ACT

### **Interpretation**

1. In this Act,

“animal” means horse, mule, jack, goat, neat cattle, swine or geese;

“lawful fence” means a fence that is not less than 135 centimetres high and consists of such course of rails or wire as may reasonably appear sufficient for the protection of the ground within its bounds from animals.

### **Application of the Act**

2. This Act does not apply within a municipality.

### **Pound districts and pound keepers**

3. The Commissioner in Executive Council may constitute any part of the Yukon a pound district, and appoint therefor one or more pound keepers.

### **Where animal trespasses**

4.(1) The owner or occupier of land surrounded by a lawful fence, or the agent or either of them, may capture an animal trespassing upon his land and deliver it to the nearest pound keeper of the pound district in which the trespass was committed.

(2) Where an animal breaks a lawful fence and causes damage to land partly enclosed by such fence and partly enclosed by a fence that is not a lawful fence, the owner or occupier of the land may deal with the animal in the same manner as if the land were entirely enclosed by a lawful fence.

(3) Where an animal breaks through a fence that the owner of the animal is bound to repair and keep up, the owner of the land where the animal breaks through may, whether the fence is a lawful fence or not, capture the animal and deliver it to the nearest pound keeper in the pound district where the land is situated.

### **Where animal running at large**

5. Any person may capture an animal running at large and deliver it to the pound keeper of the district where the animal was found running at large.

### **Liability of landowner and owner of animal**

6.(1) An owner or occupier of land where an animal is kept, or the person in charge of the animal, is liable for any damage caused by the animal as if the animal were his property.

(2) The owner of an animal who permits the animal to run at large is liable for any damage done by the animal, whether the land where such damage is done is surrounded by a lawful fence or not.

**Delivery of animals to pound keepers**

7. A person who delivers an animal to a pound keeper shall

- (a) leave with the pound keeper a statement in writing of his claim for damages done by the animal and his reasonable charges incurred in delivering it to the pound keeper,
- (b) deposit such poundage fees if demanded as the pound keeper considers reasonable, and
- (c) sign an agreement in the prescribed form to pay the owner all damages caused by the capture of the animal in case the capture was illegal, or his claim for damages is not established.

**Duty of pound keeper towards impounded animal**

8. Subject to section 7, the pound keeper shall impound every animal delivered to him for that purpose and shall be responsible for feeding it and its safe keeping as long as he is legally bound to hold the animal.

**Delivery of animal to owner**

9.(1) Subject to subsection (2), before delivering an animal to its owner the pound keeper shall collect from him the amount of the damages, charges of the keep, and other incidental expenses connected with the animal.

(2) Notwithstanding subsection (1), the owner of an impounded animal is entitled on demand to his animal without payment of any damages, charges or other expenses on giving satisfactory security for such damages, charges and expenses.

(3) The owner of an animal captured or impounded under this Act is entitled to recover it upon tender of all damages committed and all reasonable charges incurred up to the time of tender from any person in whose possession the animal is.

**Notice and sale where owner is known**

10.(1) Upon impounding an animal, the pound keeper shall immediately notify the owner, if known, of the impounding.

(2) If, within three days after notification under subsection (1), the owner does not pay all lawful damages and other charges or security in lieu thereof, and take his animal, the pound keeper shall sell the animal by public auction after posting notices for at least ten days of the time and place of the auction in three of the most public places in the pound district.

**Notice and sale where owner is not known**

11.(1) Upon impounding an animal, the pound keeper shall, if the owner is not known, cause to be posted in three of the most public places in the pound district, a notice giving as full a description of the animal as possible.

(2) Where the animal referred to in subsection (1) is one of the neat cattle species over two years old or a horse, mule or jack and no owner is found at the end of 20 days, the pound keeper shall advertise and sell the animal in the manner provided for in subsection 10(2).

(3) Where the animal referred to in subsection (1) is not one described in subsection (2), and no owner is found within six days, the pound keeper shall advertise and sell the animal in the manner provided for in subsection 10(2).

**Application of proceeds of sale**

12.(1) The pound keeper shall apply the proceeds of a sale under section 10 or 11 first, in payment of his fees and secondly in payment of the damages and reasonable charges of the person who delivered the animal to him, and the balance, if any, shall be paid to the owner of the animal.

(2) If the owner of an animal sold under this section is not known, the money that would be paid to him if known shall be paid at the expiration of three months to the Executive Council Member.

(3) If the owner does not within one year claim the money paid to the Executive Council Member under subsection (2), it shall be paid into and form part of the Yukon Consolidated Revenue Fund.

**Pound-keeper not to purchase animal**

13. A pound keeper shall not directly or indirectly become the purchaser at any sale conducted under his direction.

**Person delivering animal entitled to damages and charges**

14. The person who delivers an animal to a pound keeper is entitled to any damages suffered by him and his reasonable expenses in connection with the animal.

**Prohibitions**

15.(1) No pound keeper shall neglect his duty under this Act.

(2) No person shall

- (a) rescue an animal from a person lawfully taking it to the pound,
- (b) make a breach of a pound, or
- (c) unlawfully set at large an animal impounded.

**Disputes**

16. Where a dispute arises as to any matter under this Act, or a complaint is made that a fine should be imposed under this Act, a justice of the peace may, if it is brought before him, dispose of it in a summary manner.

**Right of action not impaired**

17. Nothing in this Act impairs the right of any person to an action for damages occasioned by a trespassing animal, whether the action exists at common law or by virtue of a statute.

**Returns**

18.(1) Every pound keeper shall, on December 31 in each year, forward to the Executive Council Member a return in such form as the Executive Council Member directs.

- (2) The return mentioned in subsection (1) shall set out
  - (a) the animals impounded during the year,
  - (b) the amount of damages and other charges made,
  - (c) all sales made by the pound keeper,
  - (d) the surplus, if any, made on each sale, and
  - (e) the disposition of every surplus.

**Turning animals loose to pasture in winter**

- 19. No animal is to be turned loose to pasture between October 30 and March 30 unless:
  - (a) it is in good condition, and
  - (b) feed and water are available where the animal is turned loose.

**Animals found in a weak or poor condition**

20.(1) Any person finding an animal in weak or poor condition shall notify the nearest detachment of the Royal Canadian Mounted Police, a conservation officer or a resource management officer.

(2) The police officer, conservation officer or resource management officer shall, if the owner is known, order him to feed the animal or kill it, and the owner shall comply with such order forthwith.

(3) The police officer, conservation officer or resource management officer shall, if the owner is not known, impound the animal and such animal shall be dealt with in accordance with section 11, except that it may be sold after 12 days in pound.

**Where no purchaser at sale**

- 21. If no purchaser can be found for an animal at the pound keeper's sale, the pound keeper may
  - (a) dispose of it by private sale, or
  - (b) kill it and sell the meat.

**Offence and penalty**

22. A person who violates a provision of this Act or the regulations commits an offence and is liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

**Regulations**

- 23. The Commissioner in Executive Council may make regulations
    - (a) prescribing forms;
    - (b) setting fees;
    - (c) generally for carrying out the provisions of this Act.
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# CHAPTER 135

## PRESUMPTION OF DEATH ACT

### Interpretation

1. In this Act, “interested person” means any person who is or would be affected by an order made under this Act and includes,

- (a) the next of kin of the person in respect of whom an order is made or applied for, and
- (b) a person who holds property of the person in respect of whom an order is made or applied for.

### Making of order

2.(1) Where, upon the application of an interested person, the Supreme Court is satisfied that

- (a) a person has been absent and not heard of or from by the applicant, or to the knowledge of the applicant by any other person since a day named,
- (b) the applicant has no reason to believe that the person is living, and
- (c) reasonable grounds exist for supposing that the person is dead,

the Supreme Court may make an order declaring that the person shall be presumed to be dead for all purposes, or for such purposes only as are specified in the order.

(2) An order made under subsection (1) shall state the date on which the person is presumed to have died.

(3) Any interested person may, with leave of the Supreme Court, apply to the Supreme Court for an order to vary, amend, confirm or revoke an order made under subsection (1).

(4) An order, or a certified copy thereof, declaring that a person shall be presumed to be dead for all purposes or for the purposes specified in the order is proof of death in all matters requiring proof of death for such purposes.

### Confirmation required for possibly mistaken order

3. Where an order has been made declaring that a person shall be presumed to be dead for all purposes or for the purpose of distributing his estate, and the personal representative of the person presumed to be dead believes or there are reasonable grounds for him to believe that the person is not in fact dead, the personal representative shall not thereafter deal with the estate or remaining estate unless the presumption of death is confirmed by an order made under subsection 2(3).

### Mistaken order

4.(1) Where a person who is presumed to be dead is in fact alive, any distribution of his property that has been made in reliance upon an order made under section 2, and not in contravention of section 3, shall be deemed to be a final distribution and to be the property of the person to whom it has been distributed as against the person presumed to be dead.

(2) Where a person who is presumed to be dead is found by the Supreme Court to be alive, the Supreme Court may, upon the application of any interested person and subject to subsection (1), by order give such directions as the Supreme Court considers appropriate respecting the property of the person found to be alive and its preservation and return.

**Person dead in fact**

5. Where a person who is presumed to be dead is in fact found to be dead, any distribution of his property that has been made in reliance upon an order made under section 2 shall be deemed to be a final distribution and to be the property of the person to whom it has been distributed as against any person who would otherwise be entitled if the order made under section 2 had not been made.

**Appeal**

6. Any interested person may appeal an order made under this Act to the Court of Appeal.

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# CHAPTER 136

## PUBLIC HEALTH ACT

### Interpretation

#### 1. In this Act,

- “communicable disease” means a disease declared by the Commissioner in Executive Council to be a communicable disease;
- “health officer” means a person appointed by the Commissioner in Executive Council to act as a health officer;
- “intoxicating vapour” means any vapour, fume or liquid that is emitted, given off or produced from a regulated matter;
- “medical health officer” means a qualified medical practitioner appointed by the Commissioner in Executive Council to act as a medical health officer;
- “regulated matter” means plastic solvents, adhesive cement, cleaning agents, glue, dope, polish remover, hair spray, lighter fluid, gasoline, paint, lacquer thinner or any other matter specified by the regulations as a regulated matter for the purpose of this Act.

### Public health and sanitation regulations

#### 2. The Commissioner in Executive Council may make regulations respecting

- (a) the control and prevention of communicable diseases, including
  - (i) the reporting by every medical practitioner of persons under his treatment suffering from a communicable disease,
  - (ii) the isolation or placing in a hospital or building provided for quarantine or isolation purposes, or in any other proper place, of any person suffering from a communicable disease,
  - (iii) the detention for observation and surveillance of persons who have been exposed to a communicable disease,
  - (iv) the cleansing, purification, disinfection or disinfestation of articles or things used by persons suffering from a communicable disease,
  - (v) the supply of medical aid, accommodation and medicine and such other articles or things as the Commissioner in Executive Council deems necessary for the mitigation of any epidemic or communicable disease,
  - (iv) the entry into the Yukon of vehicles, vessels and other conveyances, including aircraft, and their departure therefrom and the receiving and discharging of passengers or cargoes in, on board or from the same, and
  - (vii) the vaccination or inoculation against communicable diseases of persons or animals in the Yukon and the supply and distribution of vaccine matter and serum used in performing such vaccinations or inoculations;
- (b) the location of cemeteries, the burial of unclaimed bodies and the bodies of indigents, the interment of the dead, the conduct of funerals and the transportation of dead bodies;

- (c) the location, construction, ventilation, lighting, heating, equipment, water supply, drainage, toilet and ablution facilities, excreta and garbage disposal, protection against rodents and vermin, cleansing, disinfection and disinfection of, and the sanitary inspection and control of
  - (i) buildings and premises of any kind whatsoever, and
  - (ii) aircraft, ships, vessels and other public conveyances of any kind;
- (d) the prevention and removal of insanitary conditions on public or private property;
- (e) the prevention of overcrowding of premises used for human occupation and places of public assembly, and specifying the amount of air space to be allowed for each individual therein;
- (f) the cleaning of streets, lanes, yards, lots and other open spaces, both public and private;
- (g) the location, construction, ventilation, inspection, cleaning and sanitary control of sewers, sewage systems, water closets, indoor and outdoor toilets, cesspools, soakage pits, septic tanks and pumps;
- (h) the location, construction, maintenance and inspection of plumbing and plumbing systems or installations in or upon any building, structure, property or place;
- (i) the control of waste disposal grounds for the disposal of excreta and garbage;
- (j) the location, construction, maintenance, purification and treatment of water supplies and systems, the testing and analysis of water therefrom, the inspection and approval of sources of water supply, and the addition of such chemicals thereto as, in the opinion of the Commissioner in Executive Council, are considered to be in the interests of public health;
- (k) the cutting, storage, distribution and sale of ice;
- (l) the sanitary inspection and control of food supplies, including milk and milk products of any kind, for human consumption, and of domesticated or range animals, stables, pens or lines, and testing of animals for tuberculosis, infectious bovine abortion or any disease communicable to human beings;
- (m) the medical and sanitary inspection and control of food handlers;
- (n) the use of noxious materials including fertilizers, sprays or preservatives dangerous to the public health;
- (o) the protection of the health of persons exposed to conditions, substances or processes occurring in any industry or occupation and that may be injurious to health;
- (p) the method of carrying on noxious or offensive trades or businesses and the summary abatement of unsanitary conditions or conditions dangerous to the public health arising therefrom;
- (q) the prevention of the pollution, defilement, discoloration or fouling of lakes, streams, rivers, ponds, pools, springs and water courses, so as to ensure their sanitary condition;
- (r) the prevention, control and abatement of air pollution due to any cause;
- (s) the confinement and disposition of diseased or injured animals and the disposal of dead animals;
- (t) the medical and dental inspection of school children and of the occupants of any public institutions including hostels, gaols and lockups;

- (u) the use of hydrocyanic acid and other lethal gas or substances as an insecticide or rodenticide, and the licensing and regulation of persons engaged in the business of vermin or rodent extermination;
- (v) the provision of medical care for skilled or unskilled labourers in mining, prospecting, fishery, lumber, dredging or construction camps in an area remote from hospital and medical facilities.

### **Quarantine districts**

3.(1) The Commissioner in Executive Council may by order declare any area or district in the Yukon to be a quarantine district, where he has reason to believe that an epidemic of communicable disease exists.

(2) Where any area or district is declared to be a quarantine district, a health officer has power

- (a) to prevent the entrance or exit of persons, or vehicles, vessels or other conveyances, including aircraft, to or from the quarantine district,
- (b) to detain for observation and surveillance persons who have been exposed to a communicable disease, and
- (c) to order the cleansing, purifying, disinfection or disinfestation of persons who have been exposed to a communicable disease, or of articles or things used by persons suffering from a communicable disease at the expense of the owner, occupier, custodian or person in charge or possession thereof.

### **Medical health officers and health officers**

4.(1) Subject to section 5, the council of a municipality may appoint

- (a) a medical practitioner as medical health officer for the municipality, or
- (b) if no medical practitioner is available, some suitable person as health officer,

and such person shall hold office during pleasure.

(2) The Commissioner in Executive Council may by order establish in areas of the Yukon not within a municipality one or more health districts and may for each health district appoint

- (a) a medical practitioner as medical health officer, or
- (b) some other suitable person as health officer,

and such person shall hold office during pleasure.

### **Approval of medical health officer or health officer**

5.(1) Where a municipality has entered into an agreement authorized by a bylaw passed pursuant to the Municipal Act, if the party providing public health services to the municipality pursuant to the agreement disapproves in writing of the person holding the office of medical health officer or health officer, the council shall dismiss him and appoint a person approved by the party providing the public health services.

(2) Any appointment to the office of medical health officer or health officer during the term of an agreement referred to in subsection (1) shall be subject to the approval of the person providing the public health services.

**Municipal boards of health**

6.(1) The council of a municipality for which a medical health officer or health officer has been appointed may appoint a board of health for the municipality.

(2) If the council of a municipality described in subsection (1) has not appointed a board of health, the Executive Council Member may by letter addressed to the clerk of the municipality request the council to appoint a board of health.

(3) If within two months of the mailing of the letter referred to in subsection (2) the council has not appointed a board of health, the Commissioner in Executive Council may appoint a board of health for the municipality.

(4) The expenses of a board of health appointed pursuant to subsection (3) shall be borne by the municipality for which it is appointed.

**Boards of health for areas outside a municipality**

7. The Commissioner in Executive Council may appoint boards of Health for areas in the Yukon not within a municipality.

**Practice and procedure for municipal boards**

8.(1) A board of health established by a council shall consist of the medical health officer or health officer of the municipality and not less than four electors of whom not more than two shall be members of the council.

(2) The council shall designate one of the members as chairperson of the board and another as secretary of the board.

(3) Subject to subsection (4), the term of office of

- (a) a member of the board who is also a member of council shall be for a period fixed by the council at the time of his appointment or, if he ceases to be a member of the council before the expiry of the period so fixed, until he ceases to be a member of the council,
- (b) the member of the board who is the medical health officer or the health officer shall be for the period during which he holds the office of medical health officer or health officer, and
- (c) members of the board not described in paragraph (a) or (b) shall be for a period of three years.

(4) Any member of the board may be reappointed for a term to be determined by the council except that no member shall be reappointed if,

- (a) on the expiry of his term of office he has been a member of the board for nine consecutive years, or
- (b) the term for which it is intended to reappoint him would result in his being a member of the board for more than nine consecutive years.

(5) Meetings of the board shall be held at least once a month at the call of the chairperson or at any time on the demand of any three members.

(6) A copy of the minutes of each meeting of the board shall be filed with the clerk of the council.

(7) The board may make rules governing its proceedings, the conduct of its meetings, the appointment of committees and generally for the transaction of its business.

(8) The chairperson shall submit to the council within three months following the end of each year a report on public health services and conditions in the municipality.

**Duties of municipal board**

9. The duties of a board of health established by a council are

- (a) to advise the council on matters pertaining to public health in the municipality,
- (b) to administer within the municipality the Public Health Act and regulations and any bylaws pertaining to public health passed by the council, and
- (c) to administer local public health services and to advise the council with respect to financial matters pertaining thereto including cost-sharing arrangements with other agencies for the provision of these services.

**Practice and procedure for boards appointed by the government**

10.(1) A board of health established by the Commissioner in Executive Council shall consist of as many members as he may designate but not less than three.

(2) The Commissioner in Executive Council shall appoint one of the members as chairperson of the board and another member as secretary of the board.

(3) The term of office of a member shall be as designated by the Commissioner in Executive Council at the time of his appointment.

(4) The board may make rules governing its proceedings, the conduct of its meetings, the appointment of committees and generally for the transaction of its business.

(5) The duties of the board shall be those assigned to it by the Commissioner in Executive Council.

(6) The chairperson shall submit to the Executive Council Member within three months following the end of each year a report on public health services and conditions in the area in which the board has jurisdiction.

**Annual report**

11. In the case of a board of health appointed by the Commissioner in Executive Council pursuant to subsection 6(3) a copy of the report referred to in subsection 10(6) shall be sent to the mayor of the municipality for which the board was appointed.

**Inspection powers**

12. A health officer may, at any reasonable time, enter any place and examine the same for any purpose relating to the enforcement of this Act or the regulations.

**Powers of rectification**

13.(1) Where a health officer is authorized to direct that any matter or thing relating to the enforcement of this Act or the regulations be done by a person and the person fails to comply with any direction so given, the health officer may, with the approval of the Executive Council Member direct and arrange that the matter or thing be done at the expense of that person.

(2) All expenses incurred under subsection (1) are recoverable by the Government of the Yukon as an ordinary debt.

**Seizure and detention**

14.(1) A health officer may, when the safety of persons appears to make it necessary, seize, detain and carry away any article or thing by means of which or in relation to which he has reasonable grounds for believing that any provision of this Act or the regulations has been violated.

(2) Any article or thing seized pursuant to subsection (1) may, with the approval of the Executive Council Member, be destroyed or otherwise disposed of at the direction of the health officer, except that the health officer shall, where he is satisfied that the provisions of this Act and the regulations with respect thereto have been complied with, release any article or thing seized by him pursuant to subsection (1) to the person from whom the same was seized.

**Powers of health officer in performance of duties**

15. A health officer has for any purpose relating to the enforcement of this Act or the regulations, all the powers of a peace officer while acting in his capacity as a health officer and in the performance of his duties under this Act or the regulations, and where any health officer is obstructed in the performance of any duty he may call to his assistance any peace officer or other person he thinks fit, who shall give him all reasonable assistance.

**Powers of medical health officer**

16. For the purposes of this Act, a medical health officer has all the powers of a health officer.

**Exemption**

17. The Commissioner in Executive Council may exempt any person or thing from all or any of the provisions of this Act or the regulations, upon any terms and conditions as he may specify.

**Intoxicating vapours and regulated matter**

18.(1) No person shall, for the purpose of inducing euphoria, hallucinations or intoxication

- (a) inhale, administer or otherwise introduce into his respiratory system, or
- (b) assist or cause another to inhale, administer or otherwise introduce into his respiratory system

an intoxicating vapour.

(2) No person shall, for the purpose of inducing euphoria, hallucinations or intoxication

- (a) manufacture for himself or another, or



- (b) give, sell or otherwise distribute

any regulated matter which emits, gives off or produces or can be made to emit, give off or produce an intoxicating vapour.

(3) This section does not apply to

- (a) the manufacture or sale of a regulated matter for medical purposes,
- (b) the inhalation, administration or other introduction of an intoxicating vapour into the respiratory system under the supervision of a medical practitioner, or
- (c) a medical practitioner or dentist or a person acting under his direction who assists or causes another to inhale, administer or otherwise introduce into his respiratory system an intoxicating vapour.

### **Search and seizure**

**19.(1)** A peace officer who has reasonable grounds for believing and does believe that any regulated matter is being unlawfully kept may search

- (a) a vehicle, boat or conveyance of any description,
- (b) any person found in a vehicle, boat or conveyance of any description, or
- (c) the land in the vicinity of the vehicle, boat or conveyance of any description that is being searched.

(2) Where a justice is satisfied by information upon oath that there are reasonable grounds for believing that any regulated matter is being unlawfully kept or had or kept or had for unlawful purposes in any building or premises, he may, by warrant under his hand, authorize a peace officer or any person named in the warrant to enter and search the building or premises and each part thereof.

(3) A peace officer who has reasonable grounds for believing and does believe that a violation of this section or the regulations made under this section, has been committed or is about to be committed may at any time without warrant enter any building or premises other than a private dwelling without an order and make such search as he deems fit for the purposes of enforcing this Act.

(4) Any person who refuses to admit or attempts to obstruct the entry of a peace officer for the purpose of this section commits an offence.

(5) Where a peace officer proposes to conduct a search in respect of an offence against this Act or the regulations and the peace officer is not of the same sex as the person to be searched, the peace officer shall engage to perform the search a person who is of the same sex as the person to be searched; the person so engaged may perform the search and for that purpose has all the powers and immunities of a peace officer.

(6) Where a peace officer finds any regulated matter that is had or kept contrary to this Act or the regulations, he may forthwith seize the regulated matter.

(7) Where any regulated matter is seized by a peace officer he shall forthwith make an inventory thereof and a report in writing of the seizure to the Executive Council Member.

(8) Where a person is found in or around buildings or premises which are being searched pursuant to subsection (2), he shall on request of a peace officer report to him his correct name and address.

**Offences and punishment**

20. Every person who

- (a) violates any of the provisions of this Act or the regulations,
- (b) obstructs a medical health officer or health officer in the exercise of his powers or in the carrying out of his duties under this Act or the regulations,
- (c) neglects, fails or refuses to comply with an order or direction given to him by a medical health officer or health officer in the exercise of his powers or the carrying out of his duties under this Act or the regulations,
- (d) without the authority of a medical health officer or health officer, removes, alters or interferes in any way with anything seized or detained under this Act, or
- (e) owns, constructs, operates or maintains any installation, building, place or thing mentioned in this Act or the regulations that does not comply with the requirements thereof,

commits an offence and is liable on summary conviction to a fine not exceeding \$500 or imprisonment for a term not exceeding six months, or both fine and imprisonment.

**Travel payments**

21. Where the Executive Council Member is satisfied that a case of medical necessity has arisen in connection with any person, he may pay some or all of the travel expenses of that person for treatment at the nearest place at which suitable medical treatment is available.

**Regulations**

22. For the purpose of carrying into effect the provisions of this Act, the Commissioner in Executive Council may make any regulations not inconsistent with the spirit of this Act as are considered necessary or advisable, and for that purpose may provide for any proceeding, matter, or thing for which express provision has not been made in this Act or for which only partial provision has been made, and regulations made under this section shall have the same force and effect as if incorporated in this Act.

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# CHAPTER 137

## PUBLIC INQUIRIES ACT

### **Interpretation**

1. In this Act, "board" means any board appointed under this Act.

### **Establishment of inquiry**

2. The Commissioner in Executive Council may cause an inquiry to be made into any matter,

- (a) connected with the conduct of the public business of the Yukon, or
- (b) any matter of public concern.

### **Appointment of board**

3. The Commissioner in Executive Council may appoint a board of one or more persons to make an inquiry and report thereon to him.

### **Board may summon witnesses**

4. Every board shall have the power, subject to reasonable notice, of summoning any person as a witness and of requiring him to give evidence on oath or affirmation and to produce such documents and things as the board considers necessary.

### **Powers of board**

5. Every board shall have the same power as is vested in a court of record in civil cases,

- (a) to enforce the attendance of persons as witnesses,
- (b) to compel them to give evidence, and
- (c) to compel them to produce documents and things.

### **Right to counsel or agent**

6. Where the actions or conduct of any person are called into question in the course of any inquiry, such person shall have the right to be represented by counsel or agent.

### **Regulations**

7. The Commissioner in Executive Council may make regulations respecting

- (a) the remuneration of the members of a board and witnesses;
  - (b) allowances for members of a board and witnesses in respect of travelling and living expenses;
  - (c) the procedures governing the conduct of the inquiry;
  - (d) generally for carrying out the purposes and provisions of this Act.
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# **CHAPTER 138**

## **PUBLIC LOTTERIES ACT**

### **Interpretation**

1. In this Act,

“commission” means the Yukon Lottery Commission established under section 2;

“public lottery” means a lottery scheme conducted pursuant to an agreement under section 11.

### **Yukon Lottery Commission**

2.(1) There shall be a Yukon Lottery Commission consisting of not more than 12 members appointed by the Executive Council Member.

(2) The term of membership in the commission is two years.

### **Conflict of interest and substitute members**

3.(1) Where a member of the commission has a direct or indirect personal interest otherwise than as a member of the public or an organization in any matter under review by the commission, he shall refrain from participating in the review of the matter by the commission.

(2) Where any member of the commission is prevented for any reason from performing his duties, the Executive Council Member may appoint a substitute for such period of time as the Executive Council member considers appropriate, subject to subsection 2(2).

### **Chairperson and vice-chairperson**

4.(1) The Executive Council Member shall appoint one of the members of the commission to be the chairperson and another to be the vice-chairperson.

(2) The chairperson is the chief executive officer of the commission, and he shall

- (a) supervise and direct the work of the commission, and
- (b) preside at sittings of the commission.

(3) Where the chairperson is unable at any time for any reason to exercise the powers and perform the duties of his office, the vice-chairperson shall act in his place.

### **Meetings**

5. The commission shall meet at the call of the chairperson, who shall convene such meetings as he considers desirable for the conduct of the business of the commission.

### **Quorum**

6.(1) A majority of the members of the commission is a quorum, and no quorum exists unless the chairperson or vice-chairperson is present.

(2) Subject to subsection (1), a decision of the majority of the members present at a meeting of the commission is a decision of the commission, but in the event of an evenly divided opinion between members of the commission, including the vote of the chairperson, the matter shall be decided in accordance with the vote of the chairperson.

(3) A vacancy in the membership of the commission reduces the number of members required for a quorum and, subject to subsections (1) and (2), does not impair the right of the other members to act.

**Rules of procedure**

7. The commission may make rules of procedure consistent with this Act and the regulations respecting

- (a) the conduct of its meetings and business,
- (b) the records to be kept in respect of the business of the commission under this Act,
- (c) the custody, preservation and provision of access to the records referred to in paragraph (b), and
- (d) any other matter that reasonably is necessary or advisable for the effective and orderly conduct of the duties of the commission.

**Reports**

8. At the request of the Executive Council Member and at such other times as the commission considers appropriate, the commission shall make reports to the Executive Council Member respecting the business of the commission.

**Staff and support services**

9. Subject to the Public Service Commission Act, the Executive Council Member shall make provision for a secretary and other administrative support services for the commission.

**Expenses**

10. A member of the commission may be paid transportation, accommodation and living expenses incurred in connection with the performance of his duties as a member of the commission away from his ordinary place of residence but, except as otherwise provided by the regulations, the payment of such expenses shall conform as nearly as possible in all respects to the payment of such expenses for members of the public service of the Yukon.

**Agreement with provinces**

11. The Executive Council Member may, with the approval of the Commissioner in Executive Council, enter into agreements with the government of any province or any agency of the government of any province for the purpose of undertaking, organizing, conducting and managing public lottery schemes.

**Responsibilities of the commission**

12. The commission is responsible for the conduct and management of public lotteries and, subject to the regulations, the allocation of the profits of public lotteries.

**Agreements respecting the operation of lotteries**

13.(1) The Executive Council Member may, with the approval of the commission, enter into agreements providing for the provision of services to the commission respecting the conduct and management of public lotteries.

(2) An agreement under subsection (1) is binding on the commission.

**Advisory functions of the commission**

14. The commission shall advise the Executive Council Member respecting
- (a) existing or proposed agreements and regulations under this Act, and
  - (b) any other matter it considers advisable respecting public lotteries.

**Deposit of lottery money**

15. The Treasurer shall establish within the Yukon Consolidated Revenue Fund a Yukon Lottery Commission Fund, into which shall be paid all money received in respect of the conduct or management of public lotteries.

**Financial Administration Act**

16. The Yukon Lottery Commission Fund is a trust fund for the purposes of the Financial Administration Act.

**Payment of expenses of lottery operations**

17. Subject to the regulations, there may be paid from the Yukon Lottery Commission Fund all expenses incurred in the conduct or management of public lotteries, including the remuneration and expenses of members of the commission.

**Regulations**

18. The Commissioner in Executive Council may make such regulations as he considers necessary respecting

- (a) the conduct and management of public lotteries;
  - (b) the fees or commissions payable to agents or sellers;
  - (c) the issuance of licences for the sale of lottery tickets, and the terms and conditions for licences;
  - (d) the purposes for which the profits of public lotteries may be paid, and the allocation of profits for those purposes;
  - (e) any other matter to carry the purposes and provisions of this Act into effect.
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# CHAPTER 139

## PUBLIC PRINTING ACT

### **Official gazette**

1. The Commissioner in Executive Council may authorize the publication, in such form as he may prescribe, of an official gazette to be called the Yukon Gazette for the publication of proclamations, official and other notices and of all matters that are required to be published therein.

### **Publication in gazette required**

2. All advertisements, notices and documents that relate to matters within the control of the Legislature and are by any law required to be published shall be published in the Yukon Gazette unless some other mode of publication is prescribed by law.

### **Queen's Printer**

3. The Commissioner in Executive Council may appoint an officer who shall be known as the Queen's Printer.

### **Powers and duties of Queen's Printer**

4. The Queen's Printer under the direction of the Executive Council Member has the management and control of the printing and stationery requirements of the Yukon and has such other powers and shall discharge such other duties as are conferred or imposed upon him by the Executive Council Member.

### **Contents of the Yukon Gazette**

5. The Queen's Printer shall print and publish or cause to be printed and published the Yukon Gazette, the statutes of the Yukon and such documents and announcements as the Executive Council Member may require.

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# CHAPTER 140

## PUBLIC SERVANTS SUPERANNUATION ACT

### **Employees required to contribute**

1. Every person employed in the public service of the Yukon who would, if he were employed in the public service of Canada, be a contributor within the meaning of the expression "contributor" in section 2 of the Public Service Superannuation Act (Canada) is required to contribute, by reservation from his salary or otherwise,

- (a) to the superannuation account in the Consolidated Revenue Fund of Canada, the amount required by Part I of the Public Service Superannuation Act (Canada) to be contributed by him as a contributor under that Part, and
- (b) to the public service death benefit account in the Consolidated Revenue Fund of Canada, the amount required by Part II of the Public Service Superannuation Act (Canada) to be contributed by him as a participant under that Part.

### **Payment of contributions to Consolidated Revenue Fund**

2. The Executive Council Member shall reserve from the salary of every employee and pay to the Consolidated Revenue Fund of Canada the amounts required to be reserved from the salary of each employee by the Public Service Superannuation Act (Canada).

### **Government of the Yukon contribution**

3. There shall be paid from the Yukon Consolidated Revenue Fund to the Consolidated Revenue Fund of Canada from time to time as required by the Minister of Finance of Canada the amount required to be paid under the Public Service Superannuation Act (Canada) by a public service corporation specified in Schedule C or D to the Financial Administration Act (Canada) in respect of the contributions of employees to the superannuation account and the public service death benefit account in that Fund.

### **Regulations**

4. The Commissioner in Executive Council may make regulations

- (a) specifying, for the purpose of this Act, the circumstances under which an employee's service in the public service of the Yukon shall be deemed to be substantially without interruption;
  - (b) defining, for the purpose of this Act, the expressions "part-time employee", "prevailing rate employee" and "seasonal employee";
  - (c) generally, for carrying out the provisions of this Act.
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# CHAPTER 141

## PUBLIC SERVICE COMMISSION ACT

### Interpretation

1.(1) In this Act,

- “adjudicator” means an adjudicator appointed pursuant to section 79 of the Public Service Staff Relations Act;
- “casual employee” means a person engaged on a casual or temporary basis and whose period of employment is not intended to exceed six consecutive and continuous months of employment;
- “chairperson” means the chairperson of the classification appeal board established pursuant to this Act;
- “commission” means the public service commission established pursuant to section 3;
- “class” or “class of positions” means a group of positions involving duties and responsibilities so similar that the same or like qualifications may reasonably be required for and the same rate or rates of pay, pay range or pay grades can reasonably be applied to all positions in the group;
- “department or branch” means a department or branch in the public service and includes an agency, commission, board or corporation of the Government of the Yukon;
- “deputy head” means a member of the public service responsible for the administration of a department or branch who occupies a position allocated to a class listed in the regulations;
- “employee” means a person appointed to a position in the public service;
- “established position” means a continuous full-time or part-time position approved by the Commissioner in Executive Council;
- “establishment” means the total of established positions;
- “lay-off” means an employee who has been laid off pursuant to Part 10 of this Act;
- “part-time employee” means a person appointed to a position which has been established as a part-time position pursuant to this Act;
- “position” means an established position;
- “public service commissioner” means the officer appointed by the Commissioner in Executive Council pursuant to section 5;
- “public service” means the positions now existing or hereafter created in and under the departments or branches of the Government of the Yukon and includes positions under any agency, commission, board or corporation of the Government of the Yukon unless specifically excluded pursuant to section 209 or any other Act;
- “single position class” means a class containing only one position;
- “unit” means a division of the public service designated by the Commissioner in Executive Council as a unit;
- “unit head” means the member of the public service other than the deputy head responsible for the unit.

(2) Any expression defined in the Public Service Staff Relations Act and not defined in this Act shall have the meaning given to it in the Public Service Staff Relations Act.

**Power of Commissioner in Executive Council**

2. The Commissioner in Executive Council has the management and direction of the public service.

**PART 1**  
**PUBLIC SERVICE COMMISSION**

**Commission**

3. There is hereby established within the public service of the Yukon, a public service commission.

**Public service commissioner**

4. The public service commission shall consist of a public service commissioner.

**Appointment**

5.(1) The public service commissioner shall be appointed by the Commissioner in Executive Council to hold office for an initial period not exceeding ten years from the date of the appointment and shall be eligible for reappointment.

(2) The Commissioner in Executive Council may, by order, remove the public service commissioner from office prior to the end of the period of his appointment only for cause and only after

- (a) the circumstances respecting the cause are first enquired into, and
- (b) the public service commissioner is given a reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

(3) For the purpose of making an inquiry under subsection (2), the Commissioner in Executive Council shall appoint a superior court judge who shall make the inquiry and a report thereon and who has the power to summon and enforce the attendance of any person to give evidence under oath and to produce such documents as the judge may require.

(4) The Commissioner in Executive Council may suspend the public service commissioner pending the result of an inquiry under this section.

(5) The Executive Council Member shall cause the order and the report referred to in this section to be laid before the Legislative Assembly within 15 days after the order has been made or if the Legislative Assembly is not then sitting, on any of the first 15 days next thereafter that the Legislative Assembly is sitting.

**Administration of Act**

6. The public service commissioner shall, subject to the general direction of the Executive Council Member, be responsible for the administration of this Act, the regulations and any policies established pursuant thereto.

**Staff**

7. The officers and employees of the commission shall be appointed pursuant to the provisions of this Act.

**Powers of the public service commission**

8.(1) The commission has the power

- (a) to develop, maintain, administer and supervise a competent and efficient public service;
- (b) to appoint or provide for the appointment of qualified persons to or from within the public service in accordance with the provisions and principles of this Act;
- (c) to test and certify the qualifications of candidates for admission to or promotion in the public service;
- (d) to take any necessary action to ensure compliance with this Act or the regulations;
- (e) to report to the Executive Council Member from time to time respecting the operation of this Act or the regulations;
- (f) to investigate and make reports as required respecting any contravention of this Act or the regulations;
- (g) after consultation with a deputy head, to investigate and report on any matter respecting the employees of the department or branch of the deputy head;
- (h) to report as required upon the organization of the public service or any part thereof;
- (i) to establish and maintain a position classification and job evaluation system in the public service;
- (j) to make recommendations to deputy heads respecting the discipline of persons employed in their departments;
- (k) to sponsor, encourage, administer or participate in programs of employee training and safety;
- (l) to administer a program of security;
- (m) to negotiate, on behalf of the Government of the Yukon with any authorized bargaining agent pursuant to any Act of the Yukon;
- (n) to administer and interpret any collective agreement entered into between the Government of the Yukon and an authorized bargaining agent pursuant to any Act of the Legislature;
- (o) to obtain the assistance of such persons as is considered necessary to enable the commission to carry out its duties;
- (p) to perform such other duties as may be assigned to it by the Commissioner in Executive Council.

(2) For the purpose of an investigation held pursuant to the provisions of this Act or the regulations, the commission has, in respect of the investigation, the protection, privileges and powers of a board under the Public Inquiries Act.

(3) The public service commissioner and any authorized officer of the commission is entitled to access to offices, facilities and installations and to the records and files relating to personnel matters, of every department, branch or division of the public service and may examine, take extracts from or make copies thereof which are required for the purpose of enabling the public service commission to carry out its duties pursuant to this Act.

**Duties of the public service commissioner**

9.(1) The public service commissioner may delegate any of his powers, duties or functions to an officer of the commission.

(2) The public service commissioner may, with respect to employees of any department, branch or division, delegate any of his powers, duties or functions to the deputy head of that department or branch or division.

(3) Any delegation made pursuant to this section may be made subject to any condition and may be amended, replaced or revoked.

**PART 2  
DEPUTY HEADS**

**Appointment of deputy head**

10. Subject to section 14, the Commissioner in Executive Council has the exclusive right and authority to select deputy heads.

**Term of office**

11. A deputy head shall, upon an initial appointment, hold office during pleasure for a term not to exceed five years from the date of his appointment.

**Deputy head may be reappointed**

12. A deputy head may be reappointed without a break in service to hold office at pleasure for such periods as the Commissioner in Executive Council may determine.

**Deputy head**

13. Persons occupying positions allocated to the single position classes listed in the regulations shall, for the purpose of this Act, be deputy heads.

**Recruitment and certification of deputy head**

14. A deputy head shall be selected from a list of one or more candidates certified by the commission as being qualified for an appointment to a vacant position allocated to one of the classes listed in the regulations.

**Deputy head as supervisor of department**

15. It is the responsibility of the deputy head to supervise and direct the employees of his department or branch.

**Authority of deputy head**

16. The deputy head has the general supervision of the business of his department and such other powers and duties as may be assigned to him by the Commissioner in Executive Council, the public service commissioner or by this or any other Act.

**Absence of deputy head**

17. Except as otherwise provided by the Commissioner in Executive Council, in the absence of a deputy head, a unit head or any other employee designated by the deputy head has the powers and shall perform the duties of the deputy head.



**Deputy head's power to delegate**

18. The deputy head may, subject to this Act, delegate any of his powers and duties to a unit head or other officer of his department or branch.

**PART 3**  
**CLASSIFICATION OF POSITIONS**

**Establishment of classification plan**

19. The commission shall establish and maintain in force a classification plan for all positions in the public service.

**Content of plan**

20. The classification plan shall consist of classes and the commission shall define each class by reference to the duties, responsibilities and qualifications of the positions allocated to the class and shall give each class an appropriate title.

**Basis of plan**

21. Each class shall embrace all positions which have similar duties and responsibilities with the object that, under the plan, the same or like qualifications may reasonably be required for and the same remuneration applied to all positions in the class.

**Power to establish classes**

22. The public service commissioner may create, divide, combine, alter or abolish any class.

**Allocation of positions**

23. The commission may allocate positions to classes and where, in the opinion of the commission, a change in the duties of a position takes place, the commission shall evaluate the position and may reclassify it.

**Power to conduct reviews**

24. The commission may, from time to time, review the positions of any establishment or any class or any positions within a class series and, as a result of that review, allocate any position reviewed to any class.

**Effect of statement of duties**

25. Where, in respect of any class, there is a statement of the duties pertaining to a position included in that class, the statement does not affect

- (a) the powers or duties of an employee under any Act, or
- (b) the authority of a deputy head to control and direct the work of an employee.

**Use of class titles**

26.(1) The class titles set forth in the classification plan shall be used to refer to classification of positions in all records and communications of or directed to the commission and the Executive Council Member to whom responsibility for the exercise of powers under the Financial Administration Act has been assigned by the Commissioner in Executive Council.

(2) Notwithstanding subsection (1), titles other than the class titles may be used for departmental purposes or for recruiting or negotiating appointments with candidates for positions.

**Duplication of class title**

27. No class title already used in the classification plan in respect of a class of positions shall be used in respect of any other class of positions.

**Class standards and specifications**

28. Class standards and specifications shall be determined solely by the commission.

**Factors for determining standards and specifications**

29. In determining class standards and specifications, the commission shall have regard to the nature of the duties and responsibilities of the positions within a class.

**Alteration of standards and specifications**

30. Class standards and specifications shall not be altered for the purpose of adjusting the rates of compensation payable in respect of a class.

**Minimum requirements**

31. The standards of qualifications for a class shall be minimum requirements for any person appointed to a position within that class.

**Deputy head defines duties**

32. The deputy head shall define the duties and responsibilities to be assigned to each position under his direction.

**Statement for commission**

33. The deputy head shall supply to the commission a statement of the duties and responsibilities of each position on his establishment and each proposed new position for his establishment, together with such other information as the commission may require in order to classify each such position.

**RIGHT TO CLASSIFICATION REVIEW**

**Request by employee**

34. Every employee has the right to request the commission to review the classification of his position.

**Request by deputy head**

35. A deputy head has the right to request the commission to review the classification of any position within his establishment.

**Deputy head notified**

36. The commission shall, on receipt of a request pursuant to sections 34 or 35, review the classification of the position and shall notify the deputy head of the result of the review.

**Limitation**

37. Notwithstanding sections 34 and 35, where a classification review has been conducted, a deputy head or an employee shall not request a further classification review within six months from the date of the decision.

**Notification**

38. The commission shall notify the deputy head of its classification decision pursuant to sections 23, 24 or 36 and the deputy head shall within ten working days notify any employee occupying such position of the classification decision.

**RIGHT TO CLASSIFICATION APPEAL****Classification appeal board**

39. There shall be a classification appeal board consisting of such person to be known as the chairperson to be appointed from time to time as required by the public service commissioner who shall not be an officer or employee of the commission.

**Remuneration and expenses**

40. The Commissioner in Executive Council shall fix

- (a) the remuneration to be paid to the chairperson of the classification appeal board, and
- (b) the travelling and living expenses in connection with his duties when absent from his ordinary place of residence.

**Appeal**

41. An appeal lies to the classification appeal board against a classification decision of the commission made pursuant to sections 23, 24 or 36 by the employee occupying the position or by a deputy head with respect to any position on his establishment.

**Restriction**

42. Notwithstanding section 41, no appeal lies to the classification appeal board in respect of a position occupied by a deputy head.

**Notice of appeal**

43. An appeal pursuant to section 41 shall be on notice to the public service commissioner addressed to the chairperson of the classification appeal board, and the notice of appeal shall set forth the grounds of the appeal and shall be accompanied by such supporting documents as may be required to enable the appeal to be determined.

**Class to be named**

44. In addition to the materials required pursuant to section 43, the appellant shall name the class to which, in his opinion, the position should be allocated.

**Time for appeal**

45. A notice of appeal pursuant to section 43 shall be delivered to the public service commissioner not later than 15 working days after the receipt of the classification decision by the deputy head pursuant to section 38.

**Extension of time**

46. Notwithstanding section 45, the time for appeal may be extended by the public service commissioner where he is satisfied that the employee was not made aware of the decision by the deputy head.

**Notice to chairperson**

47. The public service commissioner shall forward the notice of appeal and all material supplied therewith to the chairperson of the classification appeal board.

**Additional materials**

48. The public service commissioner may also forward to the chairperson of the classification appeal board any material which the public service commissioner considers may be of assistance to the classification appeal board in determining the matter.

**Appeal procedure**

49. The classification appeal board shall consider the appeal and shall have the right

- (a) to call for any material it may require from either the appellant or the public service commissioner, and
- (b) to interview either of the parties or any officer having knowledge of the duties of the position which is the subject of the appeal.

**Informal procedure**

50. The classification appeal board is an administrative tribunal and shall determine its own procedure and shall not be required, in carrying out its duties, to comply with the formalities customarily required by a court except that the board shall be impartial and fair in arriving at its decision.

**Decision binding**

51. The decision of the classification appeal board is binding upon the Government of the Yukon, the commission, the deputy head and the employee.

**No further appeal**

52.(1) Except as provided in this Act, every order, award, direction, decision, declaration or ruling of the classification appeal board is final and shall not be questioned or reviewed in any court.

(2) No order shall be made or process entered and no proceedings shall be taken in any court, whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the classification appeal board in any of its proceedings.

**No adjudication**

53. Notwithstanding any provision of the Public Service Staff Relations Act, the decision of the classification appeal board shall not be the subject of a grievance referable to adjudication.

**Determination**

54. The classification appeal board shall, upon concluding its proceedings, either dismiss the appeal or allow the appeal.

**Jurisdiction**

55. The classification appeal board shall have no jurisdiction to allocate the position concerned to any class other than the class which is named in the notice of appeal by the appellant pursuant to section 44.

**Restriction**

56. The classification appeal board shall not have authority
- (a) to amend the class specification for any class,
  - (b) to recommend the regrading of an existing class,
  - (c) to create a new class,
  - (d) to alter a class, or
  - (e) to delete a class.

**Limitation**

57. The classification appeal board shall not conduct an appeal in respect of substantially the same matter until six months has elapsed from the date of the earlier hearing.

**Bargaining agent's adviser**

58.(1) Where an appeal to the classification appeal board is in respect of a position which is occupied by an employee who is a member of a bargaining unit, the bargaining agent shall have the right to recommend in writing one or more persons available and willing to act to be an adviser to the chairperson.

(2) On receipt of the recommendation, the public service commissioner shall appoint an adviser from amongst the persons recommended.

(3) If no person is available and willing to act, the recommendation shall be deemed to be cancelled.

**Commission's adviser**

59. Where the bargaining agent exercises its right pursuant to section 58, the public service commissioner may appoint another adviser to the chairperson who is available and willing to act.

**Consultation**

60.(1) Prior to rendering any decision, the chairperson shall consult with each of the advisers.

(2) Where the chairperson decides to hold a hearing, the advisers have the right to be present during the hearing.

(3) Where documents are examined by the board, each of the advisers has the right to peruse the documents or copies of the documents supplied by the chairperson.

**No minority report**

61. The advisers shall not have the right to make a minority report or render any independent decision.

**Sittings to be scheduled**

62. Where the chairperson decides to hold a hearing of the board, the hearing shall be scheduled at the discretion of the public service commissioner having regard to the convenience of the parties and the number of appeals in order that sittings of the board may conveniently dispose, where appropriate, of more than one appeal at a sitting.

**Successful appeal**

63.(1) Where an appeal to the board results in a decision favourable to an employee and the employee has continued to occupy the same position which was the subject of the appeal, any remuneration payable to him shall, so far as may be, be paid retroactively from the date of the classification decision which is notified to the deputy head pursuant to section 38.

(2) Notwithstanding subsection (1), an employee who has died, retired or has been laid off is entitled to retroactive pay until he ceased to occupy his position as if he had continued to occupy the position at the time the decision is made.

**Confidential and management appeals**

64. The provisions of sections 58 or 59 shall not apply to an appeal of a classification decision with respect to a position allocated to a class excluded from a collective agreement.

**PART 4  
PAY AND ALLOWANCES**

**Review of rates of pay**

65. The public service commissioner shall keep under continuous review the rates of pay assigned to classes of employment in the public service.

**Determination**

66. The public service commissioner shall, in respect of any classes of employment included or proposed to be included in a collective agreement,

- (a) establish the rates of pay for the classes,
- (b) establish the rates of pay for revised or amended classes,
- (c) regrade existing classes, and
- (d) alter the pay range or hourly rates of pay assigned to existing classes.

**Considerations to apply**

67. Prior to making any changes in the rates of pay for classes of employment mentioned in section 66, the public service commissioner shall consider

- (a) the requirements of the public service,
- (b) the rates of pay and the terms and conditions of employment prevailing in Canada for similar occupations of employment,
- (c) the relationship between existing classes of employment within the public service, and
- (d) any other factors which the public service commissioner considers relevant.

**Public service commissioner to authorize rates**

68. The Commissioner in Executive Council shall, after consultation with the public service commissioner, establish the rates of pay for any existing, revised, amended or new classes of employment excluded from a collective agreement.

**Rates of pay**

69. The Commissioner in Executive Council shall, after consultation with the public service commissioner, fix the salary and remuneration of any class of employment listed in the regulations or of any person excluded from the provisions of this Act pursuant to section 209.

**Expression of rates of pay**

70. The rates of pay for classes shall consist of a single rate, a minimum rate, a maximum rate or one or more intermediate rates or such other rates of pay as the public service commissioner may in any special case consider appropriate.

**Establishment of pay plans**

71. The public service commissioner shall establish one or more official pay plans containing the pay ranges for classes of employment and the rates of pay on an annual, monthly, bi-weekly or hourly basis, or in such other manner as he may deem appropriate.

**Acting pay**

72. Where an employee is required to perform for a temporary period the duties of a higher position than the one held by him, the public service commissioner may, in accordance with the regulations, authorize the payment to him of acting pay during such period and the employee has the power and the authority of the higher position during the period he is acting.

**Rate of pay on appointment**

73. The rate of pay of a person appointed to a position in the public service shall be the minimum rate for the class to which the position is allocated.

**Appointment at higher than minimum rate**

74. Notwithstanding section 73, the public service commissioner may make an appointment to a position in a class at a rate of pay higher than the minimum rate for that class but the rate of pay so fixed shall not exceed the maximum for the class to which the position is allocated.

**Rate of pay on appointment of deputy head**

75. The public service commissioner shall authorize the rate of pay to be paid to a person appointed to a position of deputy head.

**Payment for services rendered**

76. An employee is entitled to be paid for his services the remuneration applicable to his position.

**Oath of allegiance and oath of office**

77. Except where otherwise authorized in writing by the commission, every person appointed to or employed in a position shall take the oath of allegiance and the oath of office in the prescribed form.

**PART 5**  
**ORGANIZATION AND ESTABLISHMENT**

**Material to be supplied**

78. Every deputy head shall, on the request of the commission provide

- (a) a copy of the current organization chart of his department or branch,
- (b) a list of the number of full-time and part-time permanent positions on his establishment,
- (c) the hours of work for each part-time permanent position, and
- (d) any additional information respecting the employees in his department or branch which the commission may require.

**Organization studies**

79. The commission may conduct organization studies within the public service and make recommendations to deputy heads or the Executive Council Member respecting the organization of employees in each department, branch or division of the public service.

**Procedure on reorganization**

80.(1) Every deputy head shall, prior to implementing any reorganization of positions within his department, notify the commission.

(2) After the reorganization has been implemented by the deputy head, the commission shall classify and evaluate each position affected by the reorganization.

**Record of establishments**

81. The commission shall maintain a record of the establishment of each department, branch or division of the public service.

**Number of positions**

82. The establishment of any department, branch or division of the public service shall not, except with the approval of the Commissioner in Executive Council, exceed the number of positions approved by the Commissioner in Executive Council in respect of such department, branch or division.

**Abolition of positions**

83. The public service commissioner, with the approval of the deputy head, may abolish an existing position on the establishment of a department, branch or division.

**Term of positions**

84.(1) Except as provided in subsection (2), any position which is approved by the Commissioner in Executive Council continues for an indeterminate period.

(2) Any position which is approved for a specific period of time shall terminate at the end of that period and any employee occupying that position shall cease to be an employee at that time.



**Tenure of indeterminate appointments**

85. Subject to this Act, an employee appointed to a position, other than the public service commissioner, a deputy head or an employee appointed to a position for a specific period of time pursuant to subsection 84(2), is appointed for an indeterminate period.

**Casual not appointed to position**

86. A casual employee is not appointed to or employed in a position.

**Casual does not serve a probationary period**

87. A casual employee is not employed for an indeterminate period nor does a casual employee serve a probationary period.

**Casual terms and conditions of employment**

88. A casual employee is entitled to the terms and conditions of employment established pursuant to the regulations and pursuant to policy directives issued from time to time by the commission.

**Addition or deletion of positions**

89. Every deputy head shall forward to the public service commissioner a report respecting any new position he proposes to include in his establishment or any position which he proposes to delete from his establishment.

**Contents of report**

90. In the report referred to in section 89, the deputy head shall include

- (a) an explanation of the reason for the addition or deletion,
- (b) a position description of each proposed additional position outlining its duties and responsibilities, and
- (c) the effective date proposed for the addition or deletion of the position.

**Report respecting new positions**

91. The commission shall make reports to the Executive Council Member to whom responsibility for the exercise of powers under the Financial Administration Act has been assigned by the Commissioner in Executive Council, to the Executive Council Member under this Act, and to such other persons as may be appropriate concerning the proposals of deputy heads respecting new positions.

**Procedure for new positions**

92. Upon approval by the Commissioner in Executive Council of the new positions, the commission shall

- (a) make an official classification decision in respect of each new position, and
- (b) amend the classification plan or the official pay plan as may be required.

**Alteration of request**

93. The Executive Council Member may direct any deputy head to alter any request for a new position pursuant to section 89.

**Part-time hours of work extended**

94. The public service commissioner may authorize the extension of the hours of a part-time position at the request of a deputy head.

## **PART 6**

### **APPOINTMENTS**

#### **Exclusive right to appoint**

95. The commission has the exclusive right and authority to appoint persons to positions in the public service and to recruit, certify and document all employees appointed to a position on the establishment of a department, branch or division of the public service.

#### **Appointments**

96. Where it is possible to do so and it is in the best interest of the public service, appointments shall be made from within the public service.

#### **Canadian citizens or landed immigrants**

97. Where it is practicable and in the best interest of the public service, appointments shall be made to positions in the public service from amongst persons who are Canadian citizens or landed immigrants.

#### **Qualifications**

98. The public service commissioner may, in respect of any position or class, prescribe qualifications which are necessary or desirable having regard to the nature of the duties to be performed but in doing so, he shall not discriminate against any person by reason of race, religion, religious creed, colour, ancestry, sex, marital status or ethnic or national origin.

#### **Merit to govern**

99. All appointments to positions in the public service shall be made on merit.

#### **Casual employees**

100.(1) The commission has the authority to engage persons to perform work of a casual or temporary nature and to establish their terms and conditions of employment.

(2) Any engagement pursuant to subsection (1) shall, where practicable, be made on merit.

#### **Tests and examinations**

101. The commission may conduct examinations, tests, reference checks or interviews and review work records, performance ratings or recommendations to assist it in determining an applicant's suitability for employment or promotion in the public service.

#### **Reliability and fitness of candidate**

102. The commission may, by such investigation as it deems necessary, satisfy itself that a candidate for a position in the public service is reliable and fit to perform the duties and to undertake the responsibilities of the position for which he has applied.

#### **Fraud or falsification**

103. Any person who, in the course of any test, examination or interview for a position in the public service, knowingly makes use of any false document or gives any false information, may be dismissed by the commission and his appointment cancelled.

**Employment lists**

**104.** The commission shall establish and maintain employment lists, promotion lists and re-employment lists setting out for the various classes of positions for which such lists should be established and maintained, the names of candidates certified for those positions and each such list is valid for such period as the commission deems appropriate.

**Vacancy notice**

**105.** Where a new or vacant position is required to be filled, the deputy head shall prepare and submit the appropriate vacancy notice forms to the commission.

**Advertisement**

**106.** The commission shall oversee and direct the preparation and publication of all advertisements and notices issued for the purpose of informing prospective applicants of vacant positions in the public service.

**Type of competition**

**107.** The deputy head shall recommend to the commission whether an appointment to a vacant position on the establishment of his department or branch should be made

- (a) by exemption from competition,
- (b) by a competition restricted to applicants from within the department, branch or division,
- (c) by competition restricted to applicants from within the public service, or
- (d) by open competition.

**Reasons to be given**

**108.(1)** Where a deputy head makes a recommendation pursuant to paragraph 107(a), he shall submit with the recommendation a report in writing stating

- (a) the reasons why he considers the appointment should be exempt from competition, and
- (b) the name, particulars and qualifications of the person he recommends for appointment.

(2) Where the commission is satisfied that the person recommended pursuant to subsection (1) is qualified for the position, the commission may exempt the appointment from competition.

**Restricted competition**

**109.** On receipt of a recommendation of a deputy head pursuant to paragraph 107(b) or (c), the commission may, after considering the request, authorize that the appointment be made by competition from

- (a) within the department, branch or division,
- (b) within such department, branch or division together with other departments, branches or divisions, or
- (c) within the public service.

**Exemption from competition**

**110. Where**

- (a) a suitable person is available for appointment from a current list of eligible certified applicants for employment in the class of positions in which the vacant position is included, or
- (b) it is in the best interest of the public service and the commission is satisfied that a suitable qualified person is available,

the commission may exempt an appointment from competition.

**Open competition**

**111.** Where it is not in the best interest of the public service that an exemption from appointment by competition be made or that a restricted competition should be held, the commission shall recruit by open competition.

**Competition board**

**112.** Where a competition is to be held, the commission shall constitute a board for the purpose pursuant to the regulations.

**Certification of candidate**

**113.** The commission shall, in respect of all applicants for appointments to the public service, certify whether the candidate is qualified for the appointment.

**Selection of certified candidate**

**114.** The deputy head shall, after considering the recommendations of the board constituted pursuant to section 112, select for appointment the successful candidate from amongst those candidates certified by the commission.

**PROBATION**

**Probationary period**

**115.** Every person appointed to a position in the public service or promoted to a position in the public service shall serve a probationary period of six months, calculated from the date of his appointment to the position.

**Extended probationary period**

**116.** A deputy head or unit head may extend the probationary period of an employee for a further period not exceeding six months.

**Rejection on probation**

**117.** A deputy head or unit head may at any time during the probationary period or at any time during the extended probationary period of an employee, reject that employee for cause by written notice to the employee.

**Effect of rejection**

**118.** An employee who has been rejected under section 117 ceases to be an employee on the termination date mentioned in the notice.

**Rejection where employee held a previous position**

**119.** An employee with not less than five years continuous service in the public service of the Yukon who is appointed to a different position on probation and is later rejected during or at the end of his probationary period is, at the discretion of the commission, entitled for a period of one year from the date of his rejection to be reappointed to a position at the same class level as the position he occupied prior to the probationary appointment.

**Notification to commission**

**120.** A deputy head shall, prior to the expiry of an employee's probationary period, notify the commission

- (a) whether in his opinion the employee is suitable for continued employment in the position to which he was appointed or promoted,
- (b) whether the employee's probationary period has been extended and the length of the extension, or
- (c) whether the employee has been rejected or, in the opinion of the deputy head, will be rejected during his probationary period.

**Previous casual service**

**121.** Casual or temporary service shall not be considered as part of a probationary period in respect of an appointment to a permanent position in the public service.

**Minimum and maximum age**

**122.** No person under the age of 16 years or over the age of 65 years is eligible for appointment to a permanent position in the public service.

**RETIREMENT****Compulsory retirement age**

**123.** An employee shall be retired from the public service of the Yukon on reaching the compulsory retirement age pursuant to the provisions of the Territorial Employees' Superannuation Act.

**Exception on public service commissioner's approval**

**124.** Notwithstanding section 123, an employee's service may, with the approval of the Executive Council Member upon the recommendation of the public service commissioner, be extended for a further period not exceeding five years beyond the age mentioned in section 123.

**Release for ill health**

**125.** The commission may, pursuant to the regulations, release an employee for ill health by giving the employee notice in writing.

**Effective date of release**

**126.** Upon receipt of a notice mentioned in section 125, the employee will cease to be an employee in the public service effective on the date contained in the notice.

**Consideration for re-employment**

127. An employee released pursuant to section 125 who submits satisfactory evidence to the commission of his fitness for re-employment may, for a period of one year after the submission of the evidence, be given preference over other applicants to a vacant position in the public service for which he is qualified next after a lay-off.

**RESIGNATIONS**

**Notice of resignation**

128.(1) Every employee shall give not less than ten working days notice in writing of his intention to resign from the public service.

(2) The notice mentioned in subsection (1) shall be given to the deputy head or the unit head of the unit in which the employee is employed.

(3) The notice of resignation shall specify the last day upon which the employee will perform his duties and this shall be called the "effective day".

**Acceptance and withdrawal**

129.(1) A resignation takes effect on the effective day and may not be withdrawn except as provided in subsection (2).

(2) A resignation may, with the written consent of the deputy head and the approval of the commission, be withdrawn at any time prior to the effective day.

**Oral resignation**

130.(1) Notwithstanding sections 128 and 129, where an employee orally notifies the deputy head or the unit head of the unit in which the employee is employed of his resignation or his intention to resign, the resignation shall be effective upon written acceptance of the oral resignation by the deputy head or the unit head.

(2) An employee may appeal the written acceptance of his oral resignation by the deputy head or unit head to the public service commissioner within ten working days of the receipt of the acceptance.

(3) The decision of the public service commissioner shall be final and binding and shall not be subject to adjudication.

**Return of property**

131. Upon termination, resignation or retirement, every employee having possession, custody or control of any books, records, documents, accounts, vouchers, reports, equipment or any other thing belonging to or relating to his office or position and not being private property shall, as part of the duties of his position or office, give up possession of and deliver the same to his successor in office or to a person appointed by the deputy head to demand and receive the same, prior to his last working day.

## ABANDONMENT

### Abandonment of position

132.(1) An employee who is absent from duty without authorization for a period of five consecutive working days may by a notice in writing be declared by the deputy head to have abandoned his position and thereupon the position becomes vacant and the employee ceases to be an employee.

(2) An employee who has been declared to have abandoned his position may appeal the declaration to the public service commissioner within ten working days of the service of the notice mentioned in subsection (1) upon him.

(3) The decision of the public service commissioner shall be final and binding and shall not be subject to adjudication.

## PART 7 TRANSFER

### Employee request for transfer

133. An employee may request a transfer from one position to another in the same class or to an alternative work location by placing his request in writing to the commission.

### Review of transfer request

134. Where the commission receives a written request pursuant to section 133, the commission shall place the employee's name on a transfer list, deny the transfer, confirm the transfer or take other appropriate action.

### Transfer

135.(1) Where operational requirements so necessitate, a deputy head may, at any time, transfer an employee by written transfer notice

- (a) from one position to another position in the same class within his department or branch, or
- (b) from one work location to another work location within his department or branch,

and transmit a copy of the notice to the public service commissioner.

(2) A transfer notice shall specify the effective date of the transfer.

(3) Where compliance with the transfer notice will require the employee to move his place of residence from one community to another he may appeal the transfer notice by notice in writing to the deputy head within 15 working days of his receipt of the transfer notice.

(4) An employee who does not appeal a transfer notice within the time mentioned in subsection (3) shall be deemed to have consented to the transfer and shall comply with the transfer notice.

(5) A deputy head upon receipt of an appeal pursuant to subsection (3) shall reconsider the matter and give the employee an opportunity to make representations to him concerning the matter.

(6) A deputy head after reconsidering the matter shall confirm, revoke or vary the transfer notice and shall notify the employee of his decision together with the reasons thereof.

(7) An employee may, within 10 working days of the receipt of the decision of the deputy head pursuant to subsection (6), appeal the decision to an adjudicator appointed pursuant to the Public Service Staff Relations Act and shall notify the deputy head in writing of the appeal.

(8) An employee who does not appeal a decision of the deputy head within the time mentioned in subsection (7), shall be deemed to have consented to the decision and shall comply with the decision.

(9) An appeal to an adjudicator pursuant to subsection (7) shall operate as a stay of the transfer notice unless otherwise decided by the adjudicator.

**Power to transfer**

136. The public service commissioner may with the consent of the employee transfer an employee from one work location to another work location or from one position to another position in the same class with the approval of the deputy head of the department or branch to which the transfer is made.

**PART 8**

**SUSPENSION AND DISMISSAL**

**Power of deputy head to suspend or dismiss**

137. A deputy head may suspend or dismiss an employee

- (a) for misconduct, neglect of duties or refusal or neglect to obey a lawful order,
- (b) where the employee is incapable of performing his duties,
- (c) where the employee is unsatisfactory in performing his duties, or
- (d) where the employee is charged with a criminal offence and the circumstances thereby created render it inadvisable for him to continue his duties.

**SUSPENSION BY UNIT HEAD**

**Unit head or delegated officer may suspend**

138. A unit head or officer to whom the authority has been delegated by the deputy head may suspend an employee for any of the reasons mentioned in section 137 and may, in conjunction with the suspension, recommend the dismissal of the employee to the deputy head.

**Suspension by unit head or delegated officer**

139. A unit head or officer who suspends an employee pursuant to section 138 shall forthwith notify the employee and the deputy head in writing of the suspension, the effective date of the suspension, the reasons for the suspension and whether any recommendation has been made for dismissal of the employee.



**Appeal of suspension**

140. An employee who has been suspended pursuant to section 138 may appeal the suspension to the deputy head by written notice not later than ten working days from the date of receipt of the notice of suspension.

**Failure to appeal**

141. If no appeal against the suspension imposed pursuant to section 138 has been made within the period mentioned in section 140, the decision of the unit head or officer to suspend shall be final and binding.

**Dismissal by deputy head**

142. Where a recommendation for dismissal has been made in conjunction with the suspension and no appeal has been made pursuant to section 140, the deputy head may, by notice in writing, dismiss the employee and the employee ceases to be an employee with effect from the day on which he was suspended.

**Investigation on appeal of suspension**

143. Where the deputy head receives an appeal pursuant to section 140, he shall, within ten working days from the date of receiving the appeal, investigate the matter and give the employee an opportunity to make representations orally or in writing either personally or by counsel or agent or where the employee has so authorized, an official of the employee's bargaining agent.

**Decision after investigation**

144. Where, after the investigation, the deputy head is satisfied that the suspension was warranted, he may confirm or modify the suspension and where the suspension was accompanied by a recommendation for dismissal, he may dismiss the employee with effect from the date of the suspension or take such other action as he may see fit.

**Notification of decision**

145. The deputy head shall, within ten working days of carrying out an appeal hearing pursuant to section 143, notify the employee and the public service commissioner in writing of his decision.

**Employee appeal to adjudication**

146. An employee may, within ten working days of the receipt of the decision of the deputy head pursuant to section 142 or 145, appeal the decision to an adjudicator appointed pursuant to the Public Service Staff Relations Act.

**Notice of appeal**

147. An employee appealing pursuant to section 146 shall notify the deputy head in writing of his appeal to adjudication.

## SUSPENSION OR DISMISSAL BY DEPUTY HEAD ALONE

### **Request for hearing**

148. Where, of his own motion, a deputy head suspends or dismisses an employee, the employee may, by notice in writing within ten working days from the date of receipt of the notification to him of the deputy head's decision, request a hearing by the deputy head.

### **Failure to request hearing**

149. Where the employee does not request a hearing within the time mentioned in section 148, the decision of the deputy head shall be final and binding and the employee shall not be entitled to submit his appeal to adjudication.

### **Hearing**

150. Where the employee requests a hearing pursuant to section 148, the deputy head shall investigate the matter and give the employee an opportunity to make representations orally or in writing either personally or by counsel or agent or where the employee has so authorized, an official of the employee's bargaining agent.

### **Notification of decision**

151. Where the deputy head conducts a hearing pursuant to section 150, the deputy head may confirm, modify or revoke his earlier decision and he shall notify the employee and the public service commissioner in writing of his final decision in the matter within ten working days from the date of the hearing.

### **Appeal to adjudicator**

152.(1) An employee may, within ten working days of the receipt of the final decision of the deputy head, appeal the decision to an adjudicator appointed pursuant to the Public Service Staff Relations Act.

(2) An employee who appeals pursuant to subsection (1) shall notify the deputy head in writing.

## RESULT OF ADJUDICATION

### **Result of adjudication**

153. The decision of an adjudicator appointed pursuant to the Public Service Staff Relations Act is final and binding and on receipt of the decision of the adjudicator, the deputy head shall take any action necessary to implement the decision and so inform the public service commissioner.

### **No salary during suspension**

154. An employee shall not be entitled to be paid his salary for the period for which he is under suspension but the public service commissioner may make an allowance not exceeding one-half of the amount of his salary to an employee who has been suspended with a recommendation for dismissal.

**Revocation of decision**

155. Where a suspension is cancelled as a result of an appeal, the employee is entitled to be paid his full salary for the period of suspension less the amount of any allowance which may have been paid to him under the authority of the public service commissioner.

**Effect of suspension on continuous service**

156. The period during which an employee is under suspension is not a break in the service of that employee.

**Time limits**

157. Notwithstanding the time limitations imposed in respect of appeals, time may be extended by agreement between the employee's representative and the deputy head.

**Deputy heads**

158. A deputy head may not appeal his suspension, dismissal or release to an adjudicator appointed pursuant to the Public Service Staff Relations Act.

**Commission may be represented**

159.(1) The commission has the right to representation at any appeal pursuant to this Part and may make recommendations to any deputy head, unit head or officer with respect to any disciplinary matter pursuant to this Part.

(2) Notwithstanding subsection (1), where the public service commissioner deems it in the best interest of the public service, he may impose any penalty the deputy head had the authority to impose or modify any penalty imposed by the deputy head, unit head or delegated officer pursuant to this Part.

## PART 9 POLITICAL OFFICE

**Political leave**

160. An employee shall not become a candidate for election as a member of the House of Commons or the Legislative Assembly, without first obtaining leave of absence, without pay, pursuant to section 161.

**Authorization of leave**

161. The public service commissioner shall, where operational requirements permit, grant leave of absence without pay to an employee

- (a) to seek nomination as a candidate, or
- (b) to be a candidate for election, as a member of the House of Commons or the Legislative Assembly for a period ending on the day on which the results of the election are officially declared or on such earlier day as may be requested by the employee if he has ceased to be a candidate.

**Time when employee becomes a candidate**

162. An employee becomes a candidate pursuant to this Part when nomination papers nominating him as a candidate are filed with the returning officer.

**Effect of election**

**163.** An employee who is elected as a member of the House of Commons or the Legislative Assembly shall be deemed to have resigned or retired from the public service from the date of his election.

**Disclosure and criticism of government**

**164.** A person who has been granted leave of absence without pay to seek nomination as a candidate or to be a candidate as a member of the House of Commons or the Legislative Assembly, may speak, write or work on his own behalf or on behalf of a political party in a federal or Yukon election or by-election, if in doing so he does not

- (a) reveal any information that he has obtained or which comes to his knowledge solely by virtue of his employment or position in the public service, or
- (b) publicly criticize or oppose any government policy which he has been instrumental in formulating while an employee.

**Interpretation**

**165.** In this Part, “political activity” means speaking, writing or working on behalf of or against a candidate or a person who is seeking nomination as a candidate or on behalf of a political party in an election or by-election.

**Election activities**

**166.(1)** Except as provided by section 167, every employee, other than a deputy head, may engage in a political activity in a federal election or by-election.

(2) Except as provided by section 167, every employee, other than a person who has been identified as a managerial or confidential exclusion pursuant to the Public Service Staff Relations Act, may engage in a political activity in a Yukon election or by-election.

**Limits to election activities**

**167.(1)** No employee shall solicit funds for a political party or a candidate for election as a member of the House of Commons or the Legislative Assembly.

- (2) No person may engage in a political activity if in doing so he
  - (a) reveals any information that he has obtained or which comes to his knowledge solely by virtue of his employment or position in the public service, or
  - (b) publicly criticizes or opposes any government policy which he has been instrumental in formulating while an employee.

**Managerial or confidential exclusions**

**168.(1)** A person who has been identified as a managerial or confidential exclusion pursuant to the Public Service Staff Relations Act, may not engage in a political activity in a Yukon election or by-election.

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting.

(3) A deputy head shall not seek nomination as or be a candidate for or support or work on behalf of any candidate or political party in any federal, Yukon or municipal election or by-election or contribute funds to a candidate or political party.

**Dismissal or suspension**

169. An employee who contravenes the provisions of this Part may be suspended or dismissed by the public service commissioner.

**Appeal of dismissal or suspension**

170. An employee who is suspended or dismissed pursuant to section 169 may within ten working days of the suspension or dismissal, by written notice, appeal to an adjudicator appointed pursuant to the Public Service Staff Relations Act.

## PART 10 LAY-OFFS

**Recommendation to lay off**

171. A deputy head may recommend to the commission that an employee be laid off whenever he deems it necessary because of

- (a) a shortage of work,
- (b) insufficient appropriated funds,
- (c) the abolition of a position, or
- (d) changes in the organization of the department, branch or division.

**Appointment of lay-off to other position**

172. Notwithstanding anything in this Act, the public service commissioner may, without competition, appoint a lay-off to any position in the public service for which he is qualified and which has the same or lower maximum rates of pay as the position held by him at the time he was laid off.

**Competition**

173. A lay-off is entitled for a period of 12 months after he was laid off, to enter any competition for which he would have been eligible had he not been laid off.

**Consideration for appointment**

174. Notwithstanding anything in this Act, a lay-off shall be considered for appointment to a position for which he is qualified which has the same or lower maximum rates of pay as the position held by him at the time he was laid off, in priority to all other qualified candidates and in priority to all other employees who became lay-offs at an earlier time.

**Termination of lay-off status**

175. An employee ceases to be a lay-off if he is not appointed to a position in the public service within 12 months from the date on which he became a lay-off or if he is appointed to or if, except for reasons that in the opinion of the public service commissioner are sufficient, he declines an appointment to a position in the public service with the same or higher maximum rates of pay as the position held by him at the time he was laid off.

**Order of laying-off**

176. Where two or more employees in positions allocated to the same class in any unit of the public service are to be laid off or where one employee is to be laid off and there are other employees holding positions in the same class in the same unit, the deputy head shall prepare

and forward a report listing the employees in order of their merit to the public service commissioner and such employees, if approved by the public service commissioner, shall be laid off in order beginning with the employee lowest on the list.

**Examination and review**

177. Before compiling the report mentioned in section 176, the deputy head shall consider

- (a) all relevant job performance reviews,
- (b) any other documents on the employees' personnel files relevant to the performance of the employees' duties and responsibilities, and
- (c) any other matters the deputy head considers relevant.

**Report to commission**

178. The deputy head shall forward the merit order report mentioned in section 176 to the public service commissioner together with a report respecting

- (a) the anticipated time of lay-off,
- (b) the number of employees he intends to lay off, and
- (c) the reasons for the lay-off.

**Instructions for lay-off**

179. After considering the reports of the deputy head, the public service commissioner shall transmit his instructions to the deputy head who shall lay off the employees.

**Notice of lay-off**

180. On receipt of the instructions mentioned in section 179, the deputy head shall notify each employee to be laid off of the effective date of lay off and the reason therefor and the notice shall contain a summary of the employee's rights and privileges with respect to the lay-off pursuant to this Act; the deputy head shall transmit a copy of the notice to the public service commissioner.

**Amount of notice or pay in lieu**

181. Every employee to be laid off shall be given three months notice in writing of the effective date of his lay-off or three months salary and benefits in lieu thereof.

**Release of casual employee**

182. Every casual employee performing duties similar to those of a permanent employee in the same unit shall be released prior to the lay-off of any permanent employee in that unit.

**Effect of release**

183. The release of a casual employee shall not be a lay-off and a casual employee is not entitled to benefits provided under this Part.

## PART 11 CONTRACTS OF EMPLOYMENT

**Contract**

184. A deputy head so authorized by the public service commissioner may, on behalf of the Government of the Yukon, enter into a contract of employment with any person in accordance with this Part.

**Report to commission**

**185.** A deputy head shall, prior to entering into a contract pursuant to section 184, send a copy of the contract to the commission together with a summary of the terms and conditions included in the contract and the reasons for the contract.

**Requirements of contract**

**186.** A deputy head shall ensure that every contract of employment provides for

- (a) the remuneration to be paid to the person,
- (b) the length of the contract,
- (c) the notice required to terminate the contract,
- (d) any conditions permitting the contract to be terminated by either party,
- (e) whether remuneration is to be paid in lieu of notice to the person,
- (f) any other terms and conditions of employment,
- (g) whether any provision of this Act or the regulations is inapplicable to the person, and
- (h) whether any provision of this Act is varied pursuant to the contract.

**Exclusion from superannuation**

**187.** Except as otherwise provided by law, a contract of employment may exclude a person from obligations pursuant to the Public Servants Superannuation Act.

## PART 12 GENERAL

**Employee to provide documentation**

**188.** Every employee appointed to a position in the public service or employed pursuant to this or any other Act, shall be required to provide to the commission, within three months of the commencement of his employment, any documents requested by the commission to complete an employee personal file or payroll file or for superannuation purposes.

**Other proof in lieu of documentation**

**189.** Where an employee is unable to provide the commission with any document requested by it pursuant to section 188, he shall provide the commission with a copy of the document requested or other proof satisfactory to the commission of the contents of the document.

**Failure to provide document or other proof**

**190.** Where an employee fails to provide any documents requested by the commission or such other proof as the commission deems appropriate, the employee may, by notice in writing from the public service commissioner, be dismissed.

**Employee address for service of notices**

**191.**(1) Every employee shall notify the commission of his telephone number, if any, and of his postal address in writing and advise the commission in writing of any change in his address or telephone number.

(2) Any notice required to be given to or served upon an employee pursuant to this Act, may be served personally or by mail and if served by mail, shall be deemed to have been received by the employee five working days after the notice has been mailed by registered mail addressed to the employee at the latest postal address notified to the commission by the employee pursuant to subsection (1) unless the employee can show that the notice was received on another date.

**Confidentiality**

192. Unless otherwise determined by the commission, no information supplied by or on behalf of a candidate shall be disclosed to any person and any examinations, tests or related aids used to assess the qualifications of candidates for positions in the public service, are the exclusive property of the commission.

**Contracts with government**

193. No employee either directly or indirectly, in his own name or through another person or in the name of a person in trust for him, may bid upon, tender for, accept or enter into any contract with the Government of the Yukon.

**Exceptions for government contracts**

194.(1) Notwithstanding section 193, where specially authorized by regulation or by another Act, an employee may bid upon or enter into a contract with the Government of the Yukon.

(2) Notwithstanding section 193, an employee is not prohibited from purchasing or obtaining from the Government of the Yukon goods or services commonly available to the general public.

**Personnel records**

195. A department or branch of the public service shall maintain such personnel records and statistics as may be required by the commission.

**Training of employees**

196. The commission shall have the exclusive right and authority to select training courses for the retention, development and advancement of employees in the public service or for such other purposes as the commission deems appropriate and the commission shall have the exclusive right and authority to select employees to participate in training programs of any nature administered or funded by the commission including educational leave.

**Employment of handicapped persons**

197. Notwithstanding any other provision of this Act, the commission may employ, pursuant to such arrangements as may be appropriate, any handicapped person under such terms and conditions of employment as may be for the benefit of the person and the public service.

**Departmental training**

198. A deputy head may, with the approval of the commission, enter into arrangements with any appropriate authority for the provision of training or the administration of training programs not administered or funded by the commission.



**Staff relations**

**199.** The commission shall have the exclusive authority to bargain with and negotiate with an authorized bargaining agent, pursuant to the provisions of the Public Service Staff Relations Act, or any other Act of the Yukon which by law certifies an authorized bargaining agent.

**Grievance of employee**

**200.** The public service commissioner shall replace the Commissioner as the final level in the grievance procedure pursuant to the provisions of the Public Service Staff Relations Act.

**Interpretation of collective agreement**

**201.** The public service commissioner has the authority to administer and interpret the provisions of any collective agreement entered into between the Government of the Yukon and an authorized bargaining agent pursuant to any Act of the Legislature.

**Loan of employees**

**202.** The commission, with the approval of the Executive Council Member and the consent of the employee, may lend any employee to another government or an agency thereof or to any other person, for such period and upon such terms and conditions as to salary or otherwise as is deemed expedient and may extend the period upon similar or upon other terms and conditions.

**Improper solicitation of commission**

**203.** No person shall improperly, directly or indirectly, solicit or endeavour to influence the commission with respect to the appointment or assignment of any person to a position, or with respect to the promotion or reclassification of, or an increase of salary to, any employee in the public service.

**Attempt to influence commission**

**204.**(1) Any employee who improperly, directly or indirectly, solicits or endeavours to influence the commission in favour of his promotion, classification or increase of salary, shall be deemed to be unworthy of the promotion, classification or increase and it shall not be accorded him and the public service commissioner may suspend or dismiss him.

(2) The public service commissioner shall notify any employee in writing of any decision pursuant to subsection (1) to deny the employee's promotion, classification or increase of salary or to suspend or dismiss him.

**Appeal**

**205.** The employee may within ten working days of the receipt of the decision of the public service commissioner pursuant to section 204, appeal the decision to an adjudicator appointed pursuant to the Public Service Staff Relations Act.

**Policies to be established**

**206.** The commission may establish policies and procedures not inconsistent with this Act for carrying out the purposes and provisions of this Act.

**Regulation of procedures**

**207.** Where, pursuant to any Act or a delegation made pursuant to this Act, a deputy head, agency, commission, board or corporation has the authority to recruit, select or appoint persons to positions in the public service or to engage or recommend persons for employment by the Government of the Yukon, the commission has the jurisdiction to regulate the procedures whereby the persons are certified, the appointments are made or the persons engaged and the terms and conditions of their employment.

**Regulations**

**208.**(1) The Commissioner in Executive Council may, on the recommendation of the commission, make any regulations necessary for carrying out the provisions of this Act.

(2) Notwithstanding subsection (1), the Commissioner in Executive Council may, on the recommendation of the commission, make regulations

- (a) providing for the granting of leave of absence with or without pay including the authorization of such leave;
- (b) providing to an employee upon retirement or resignation from the public service retirement leave consisting of severance pay and earned but unused vacation leave in the amount of his earned entitlement;
- (c) regulating hours of work and attendance;
- (d) prescribing the effective date of an appointment to a position in the public service;
- (e) prescribing statutory holidays and the remuneration an employee shall receive for working on a statutory holiday;
- (f) prescribing the procedures for the recruitment, certification, appointment and documentation of all persons appointed to positions and all employees performing duties of a casual or temporary nature and the terms and conditions of employment of such persons and employees;
- (g) prescribing the terms and conditions of a person holding a position in another civil service or in the public service of Canada where the position and the employee are transferred to the public service of the Yukon;
- (h) providing for the payment of acting pay where an employee is required to perform for a temporary period the duties of a higher position and prescribing the amount of or method of determining such acting pay and the circumstances and conditions under which it may be paid;
- (i) prescribing what shall constitute continuity of employment for the purposes of this Act;
- (j) regulating the holding of offices or positions outside the public service by persons employed in the public service;
- (k) prescribing the time limits, terms of reference and procedures on classification appeals and time limits and procedures in respect of suspensions and dismissals;
- (l) authorizing the revocation of an appointment where the commission finds any irregularity in the appointment;
- (m) prescribing vacation leave, sick leave, special leave and other leave entitlements;
- (n) establishing a classification plan and specifying the qualifications for and the duties and responsibilities of each class of positions set out therein;

- (o) respecting the administration of pay plans;
- (p) prescribing forms to be used for the recruitment, appointment, transfer or promotion of employees or the classification of positions and any other forms related to matters pursuant to this Act;
- (q) respecting payment of additional remuneration to employees;
- (r) respecting long service awards or providing incentive awards for employees;
- (s) prescribing the amount and nature of leave of absence that an employee may be granted for training or educational purposes and the amount and nature of expenses and remuneration, if any, that may be paid to him while on such leave of absence, including the length of return service commitment;
- (t) providing for persons to be medically examined at the expense of the commission;
- (u) for any purpose for which regulations are by this Act authorized to be made.

**Exclusion of persons and positions**

**209.** In any case where the Commissioner in Executive Council, upon the recommendation of the public service commissioner, decides that it is not practicable nor in the public interest to apply this Act or any provision thereof to any position or employee, the Commissioner in Executive Council may exclude such position or employee in whole or in part from the operation of this Act and the Commissioner in Executive Council may re-apply any of the provisions of this Act to any position or employee so excluded.

**Application of the Act**

**210.** This Act applies to all employees whether appointed before or after the coming into force of this Act.

**Reference period of employment**

**211.** A reference in any of the provisions of this Act to a period of employment shall be construed as including employment before as well as after July 5, 1976.

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# CHAPTER 142

## PUBLIC SERVICE STAFF RELATIONS ACT

### Interpretation

1.(1) In this Act,

- “adjudicator” means an adjudicator appointed under section 79 and includes, where the context permits, an adjudicator named in a collective agreement for the purposes of that agreement;
- “arbitral award” means an award made by an arbitrator in respect of a dispute;
- “arbitrator” means an arbitrator appointed under section 54;
- “bargaining agent” means an employee organization
  - (a) that has been certified by the board as bargaining agent for a bargaining unit, and
  - (b) the certification of which has not been revoked;
- “bargaining unit” means a group of two or more employees that is determined, in accordance with this Act, to constitute a unit of employees appropriate for collective bargaining;
- “board” means the Yukon Public Service Staff Relations Board established under section 6;
- “chairperson” means the chairperson of the board;
- “collective agreement” means an agreement in writing entered into under this Act between the employer on the one hand, and a bargaining agent on the other hand, containing provisions respecting terms and conditions of employment and related matters;
- “conciliation board” means a board established under section 66 for the investigation and conciliation of a dispute;
- “conciliator” means a person appointed by the chairperson under section 43 to assist the parties to collective bargaining in reaching agreement;
- “deputy chairperson” means a deputy chairperson of the board;
- “designated employee” means an employee who is agreed by the parties to collective bargaining or determined by the board pursuant to section 42 to be a designated employee within the meaning of that section;
- “dispute” means a dispute or difference arising in connection with the conclusion, renewal or revision of a collective agreement, in respect of which arbitration is requested pursuant to section 52 or in respect of which the establishment of a conciliation board may be requested pursuant to section 65;
- “employee” means a person employed in the public service other than
  - (a) a person appointed by the Commissioner in Executive Council under an Act to a statutory position described in that Act,
  - (b) a person locally engaged outside the Yukon,
  - (c) a person whose compensation for the performance of the regular duties of his position or office consists of fees of office, or is related to the revenue of the office in which he is employed,
  - (d) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,

(e) a person employed on a casual or temporary basis, unless he has been so employed for a period of six months or more,

(f) a person employed by or under the board, or

(g) a person employed in a managerial or confidential capacity,

and for the purpose of this definition, a person does not cease to be employed in the public service by reason only of his ceasing to work as a result of a lawful strike or by reason only of his discharge contrary to this or any other Act;

“employee organization” means an organization of employees, the purposes of which include the regulation of relations between the employer and his employees for the purposes of this Act, and includes unless the context otherwise requires, a council of employee organizations;

“employer” means the Government of the Yukon;

“grievance” means a complaint in writing presented in accordance with this Act by a bargaining agent on behalf of one or more of its members or by an employee on his own behalf or on behalf of himself and one or more other employees, and includes a reference to adjudication under section 84 of this Act, except that for the purposes of any of the provisions of this Act respecting grievances, a reference to an “employee” includes a person who would be an employee but for the fact that he is a person employed in a managerial or confidential capacity;

“prescribed” means prescribed by regulations of the Commissioner in Executive Council on the recommendation of the board;

“process for resolution of a dispute” means either of the following processes for the resolution of a dispute namely:

(a) by the referral of the dispute to arbitration;

(b) by the referral thereof to a conciliation board;

“remuneration” includes a per diem or other allowance for the performance of the duties of a position or office;

“strike” includes a cessation of work or a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding or a slow-down or other concerted activity on the part of employees designed to restrict or limit output;

“vice-chairperson” means the vice-chairperson of the board.

(2) For the purposes of this Act, a reference to a person employed in a managerial or confidential capacity shall be deemed to refer to a person who is a unit head as defined in the Public Service Commission Act or any other person employed in the public service who is identified in the prescribed manner by the employer, or by the board on objection thereto by the bargaining agent, to be a person

(a) who has executive duties and responsibilities in relation to the development and administration of government programs,

(b) whose duties include those of a personnel administrator or who has duties that cause him to be directly involved in the process of collective bargaining on behalf of the employer,

(c) who is required by reason of his duties and responsibilities to deal formally on behalf of the employer with a grievance presented in accordance with the grievance process provided for in this Act,

(d) who is employed in a position confidential to a unit head or any person described in paragraphs (a), (b) or (c), or

- (e) who is not otherwise described in paragraphs (c), (d) or (e), but who in the opinion of the board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer.

**Rights and authority of the employer**

2.(1) Nothing in this Act shall be construed to affect the rights or authority of the employer

- (a) to manage and direct the members of the public service,
- (b) to determine the organization of the public service and to assign duties to and classify positions therein,
- (c) to recruit and make appointments to the public service,
- (d) to transfer and promote within the public service, and
- (e) to lay off, demote or discipline an employee.

(2) Subject to paragraph 87(3)(a), nothing in this Act affects the right of the employer to engage private contractors or contract work out for any purpose whatsoever.

**Prohibited actions by employer**

3.(1) No person who is employed in a managerial or confidential capacity shall be a member of an employee organization.

(2) No person who is employed in a managerial or confidential capacity, whether or not he is acting on behalf of the employer, shall participate in or interfere with the formation or administration of an employee organization or the representation of employees by such an organization.

(3) No person shall

- (a) refuse to employ or to continue to employ any person, or otherwise discriminate against any person in regard to employment or any term or condition of employment because the person is a member of an employee organization or was or is exercising any right under this Act,
- (b) impose any condition on an appointment or in a contract of employment or propose the imposition of any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Act, or
- (c) seek by intimidation, by threat of dismissal or by any other kind of threat, or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee
  - (i) to become, refrain from becoming or cease to be, or
  - (ii) except as otherwise provided in a collective agreement, to continue to be,

a member of an employee organization, or to refrain from exercising any other right under this Act,

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed, or proposed to be employed, in a managerial or confidential capacity.

(4) No money deducted from an employee's salary for payment to an employee organization or paid to an employee organization by an employee of the public service shall be used directly or indirectly on behalf of any political party or on behalf of any candidate for political office.

(5) The Government of the Yukon shall not make any deduction from an employee's salary for payment to an employee organization unless the employee organization delivers to the Executive Council Member a statutory declaration made by a duly authorized officer that the employee organization is complying and will continue to comply with subsection (4).

**Discrimination against employee organization**

4.(1) Except in accordance with this Act or any regulation, collective agreement or arbitral award, no person employed in a managerial or confidential capacity, whether or not he acts on behalf of the employer, shall discriminate against an employee organization.

(2) Nothing in subsection (1) shall be construed to prevent a person employed in a managerial or confidential capacity from receiving representations from or holding discussions with the representatives of any employee organization.

**Soliciting membership during working hours**

5. Except with the consent of the employer, no officer or representative of an employee organization shall attempt, on the employer's premises during the working hours of an employee, to persuade the employee to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization.

**YUKON PUBLIC SERVICE STAFF RELATIONS BOARD**

**Membership of the board**

6.(1) There shall be a board to be called the Yukon Public Service Staff Relations Board consisting of a chairperson, a vice-chairperson, not less than three deputy chairpersons and such other members as the Commissioner in Executive Council considers necessary to discharge the responsibilities of the board.

(2) The chairperson, the vice-chairperson, the deputy chairperson and the other members of the board shall be appointed by the Commissioner in Executive Council to hold office during good behaviour for such period not exceeding five years as may be determined by the Commissioner in Executive Council.

(3) A retiring chairperson, vice-chairperson, deputy chairperson or other member may be reappointed to the board in the same or another capacity.

(4) Appointments to the board made by the Commissioner in Executive Council under this Act, or appointments made by the Commissioner in Executive Council on the recommendation of the chairperson or by the chairperson shall be deemed not to be made by Her Majesty in right of Canada as represented by the Treasury Board or by the Governor in Council.



**Absence of chairperson**

7.(1) If the chairperson is absent or unable to act, or the office of the chairperson is vacant

- (a) the vice-chairperson, if one has been appointed, shall act as chairperson, or
- (b) if no vice-chairperson has been appointed, the Commissioner in Executive Council may appoint a person to act as chairperson,

and while so acting the vice-chairperson or the person appointed to act as chairperson, as the case may be, has and may exercise all of the powers and functions of the chairperson under this Act.

(2) A deputy chairperson may exercise such of the powers and functions of the chairperson under this Act as may be assigned to him by the chairperson other than the power to act as chairperson in the circumstances described in section 7.

**Qualifications for membership**

8.(1) A person is not eligible to hold office as a member of the board if

- (a) he holds any other office or employment under the employer, or
- (b) he is a member of or holds an office or employment under an employee organization that is a bargaining agent.

(2) Where a member ceases to be a member of the board for any reason he may, notwithstanding anything in this Act, carry out and complete any duties or responsibilities that he would otherwise have had if he had not ceased to be a member in connection with any matter

- (a) that came before the board while he was still a member thereof, and
- (b) in respect of which there was any proceeding in which he participated as a member.

**Remuneration and expenses of members**

9. The Commissioner in Executive Council shall fix

- (a) the remuneration to be paid to the members of the board and any other person appointed under the Act, and
- (b) travelling and living expenses to be paid to the members of the board or any other person appointed under this Act in connection with the performance of their duties when absent from their ordinary place of residence.

**Board meetings**

10. The board may meet at such times and places, whether within or without the Yukon, as it considers necessary or desirable for the proper conduct of its business.

**Meetings for conduct of business**

11.(1) At any meeting of the board for the conduct of its business, at least the following members, namely:

- (a) the chairperson or the vice-chairperson, and
- (b) two other members,

shall be present.

(2) For the purpose of facilitating the hearing or determination of any matter by the board, the chairperson may direct that the powers, duties and functions of the board under this Act shall be exercised and performed by a division of the board, to consist of,

- (a) the chairperson, vice-chairperson or a deputy chairperson, and
- (b) at least two other members to be designated by the chairperson.

(3) A decision of a majority of those present at any meeting of the board, or a division thereof, is a decision of the board or the division thereof, as the case may be, except that

- (a) where both the chairperson and vice-chairperson are present at any meeting of the board, only the chairperson may vote,
- (b) where both the vice-chairperson and a deputy chairperson are present at any meeting of the board, only the vice-chairperson may vote, and
- (c) where both the chairperson and a deputy chairperson are present at any meeting of the board, only the chairperson may vote.

**Staff and assistants for the board**

12.(1) The Commissioner in Executive Council, on the recommendation of the board, may appoint such other persons as the board deems necessary for the performance of its duties and fix their remuneration.

(2) The Commissioner in Executive Council may fix the remuneration of conciliators and other experts or persons having technical or special knowledge to assist the board and the chairperson in any advisory capacity.

(3) The Commissioner in Executive Council may delegate to the chairperson his powers under subsection (1) either generally or in specific cases.

**Powers and duties of the board**

13. The board shall administer this Act and shall exercise such powers and perform such duties as are conferred or imposed upon it by, or as may be incidental to the attainment of the objects of this Act including, without restricting the generality of the foregoing, the making of orders requiring compliance with the provisions of this Act with any regulation made hereunder or with any decision made in respect of a matter coming before it.

**Regulations**

14. The Commissioner in Executive Council may, on the recommendation of the board, make regulations of general application respecting,

- (a) the manner in which persons shall be designated by the employer, or by the board on objection thereto by a bargaining agent, to be persons employed in a managerial or confidential capacity;
- (b) the determination of units of employees appropriate for collective bargaining;
- (c) the certification of bargaining agents for bargaining units;
- (d) the hearing or determination of any matter relating to or arising out of the revocation of certification of a bargaining agent, including the rights and privileges that have accrued to and are retained by any employee notwithstanding such revocation;

- (e) the rights, privileges and duties that are acquired or retained by an employee organization in respect of a bargaining unit or any employee included therein where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations;
- (f) the establishment of rules of procedure for hearings under this Act;
- (g) the specification of the time within which the persons to whom notices and other documents shall be sent and when such notices shall be deemed to have been given and received;
- (h) the determination of the form in which, and the time as of which, evidence
  - (i) as to membership of employees in an employee organization,
  - (ii) of objection by employees to certification of an employee organization, or
  - (iii) of signification by employees that they no longer wish to be represented by an employee organization
 shall be presented to the board upon an application for certification of or for revocation of certification of a bargaining agent, and the circumstances in which evidence as to membership of employees in an employee organization may be received by the board as evidence that such employees wish that employee organization to represent them as their bargaining agent;
- (i) the hearing of complaints under section 15;
- (j) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph 21(2)(b);
- (k) such other matters and things as may be incidental or conducive to the objects and purposes of the board, the exercise of its powers and the attainment of the objects of this Act.

## COMPLAINTS

### Examination and inquiry by board

15.(1) The board shall examine and inquire into any complaint made to it that the employer, or any person acting on its behalf, or that any employee organization, or any person acting on its behalf, has failed

- (a) to observe any prohibition or to give effect to any provision contained in this Act or the regulations,
- (b) to give effect to any provision of an arbitral award,
- (c) to give effect to a decision of an adjudicator with respect to grievance, or
- (d) to comply with any regulation made by the Commissioner in Executive Council pursuant to section 85.

(2) Where under subsection (1) the board determines that any person has failed to observe any prohibition, to give effect to any provision or decision or to comply with any regulation as described in subsection (1), it may make an order, addressed to that person, directing him to observe the prohibition, give effect to the provision or decision or comply with the regulation, as the case may be, or take such action as may be required in that behalf within such specified period as the board may consider appropriate, and

- (a) where that person has acted or purported to act on behalf of the employer, it shall direct its order as well to the public service commissioner as defined in the Public Service Commission Act, and to the head of the appropriate department, and

- (b) where that person has acted or purported to act on behalf of an employee organization, it shall direct its order as well to the chief officer of that employee organization.

**Where order not complied with**

16. Where any order made under section 15 directs some action to be taken and is not complied with within the period specified in the order for the taking of such action, the board shall forward to the Executive Council Member a report of the circumstances and all documents relevant thereto, and the copy of the order, the report and the relevant documents shall be laid by the Executive Council Member before the Legislative Assembly within 15 days after receipt thereof by him or, if the Legislative Assembly is not then sitting, on any of the first 15 days next thereafter that the Legislative Assembly is sitting.

**Powers of board in relation to hearings**

17. The board has, in relation to the hearing and determination of any matter which the board may hear and determine under the Act or the regulations, power

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the board deems requisite to the full investigation and consideration of matters within its jurisdiction in the same manner and to the same extent as a judge of the Supreme Court,
- (b) to administer oaths and affirmations,
- (c) to receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it sees fit, whether admissible in a court of law or not and, without limiting the generality of the foregoing, the board may refuse to accept any evidence that is not presented in the form and at the time prescribed or ordered,
- (d) to require the employer to post and keep posted in appropriate places any notices that the board deems necessary to bring to the attention of any employees any matter or proceeding before the board,
- (e) subject to such limitations as the Commissioner in Executive Council in the interests of defence or security may prescribe, to enter any premises of the employer where work is being or has been done by employees and to inspect and view any work, material, machinery, appliances or articles therein and interrogate any person respecting any matter,
- (f) to enter upon the employer's premises for the purpose of conducting representation votes during working hours, and
- (g) to authorize any person to do anything that the board may do under paragraphs (b) to (f) and to report to the board thereon.

**Application of orders**

18. Where under this Act the board may make or issue any order or direction, prescribe any term or condition or do any other thing in relation to any person, the board may do so either generally or in any particular case or class of cases.

**Review or amendment of orders**

19. The board may review, rescind, amend, alter or vary any decision or order made by it, or may rehear any application before making an order in respect thereof, but any rights acquired by virtue of any decision or order that is so reviewed, rescinded, amended, altered or

varied shall not be altered or extinguished with effect from a day earlier than the day on which such review, rescission, amendment, alteration or variation is made.

## **APPLICATION FOR CERTIFICATION**

### **Application by employee organization**

**20.** An employee organization seeking to be certified as bargaining agent for a group of employees that it considers constitutes a unit of employees appropriate for collective bargaining may, subject to section 23, apply in the manner prescribed to the board for certification as bargaining agent for the proposed bargaining unit.

### **Application by council of organizations**

**21.(1)** Where two or more employee organizations have come together to form a council of employee organizations, the council so formed may, subject to section 23, apply in the manner prescribed to the board for certification as described in section 20.

(2) The board may certify a council of employee organizations as bargaining agent for a bargaining unit where the board is satisfied that

- (a) the requirements for certification established by this Act are met, and
- (b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent.

### **Council deemed to be employee organization**

**22.** A council of employee organizations shall, for all purposes of this Act except subsection 21(2), be deemed to be an employee organization, and membership in any employee organization that is part of a council of employee organizations shall for the same purpose be deemed to be membership in the council.

### **Time for making application for certificate**

**23.(1)** Where a collective agreement or an arbitral award is in force and is for a term of not more than two years, an employee organization may apply to the board for certification as bargaining agent for any of the employees in the bargaining unit to which the agreement or award applies only after the commencement of the last two months of its operation.

(2) Where a collective agreement or an arbitral award is in force and is for a term of more than two years, an employee organization may apply to the board for certification as bargaining agent for any of the employees in the bargaining unit to which the agreement or award applies only

- (a) after the commencement of the 23rd month of its operation and before the commencement of the 25th month of its operation,
- (b) during the two month period immediately preceding the end of each year that the agreement or award continues to operate after the second year of its operation, or
- (c) after the commencement of the last two months of its operation.

(3) Where a collective agreement referred to in subsection (1) or (2) provides that it will continue to operate after the term specified therein for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view

to the renewal, with or without modifications, of the collective agreement, an employee organization may apply to the board for certification as bargaining agent for any of the employees in the bargaining unit to whom the collective agreement applies at any time permitted by subsection (1) or (2), as the case may be, or during the two month period immediately preceding the end of each year that the collective agreement continues to operate after the term specified therein.

**No certification where previous application refused within 12 months**

24. Where an application for certification of an employee organization as bargaining agent for a proposed bargaining unit has been refused by the board, the board shall not certify the employee organization as bargaining agent for the same or substantially the same proposed bargaining unit until at least 12 months have elapsed from the day on which the board last refused such certification, unless the board is satisfied that the previous application was refused by reason only of a technical error or omission made in connection therewith.

**Determination of unit for collective bargaining**

25.(1) Where an employee organization has made application to the board for certification as described in section 20 the board shall determine the relevant group of employees that constitutes a unit appropriate for collective bargaining.

(2) For the purposes of this Act, a unit of employees may be determined by the board to constitute a unit appropriate for collective bargaining whether or not its composition is identical with the group of employees in respect of which application for certification was made.

**Determination of membership in bargaining units**

26. Where at any time following the determination by the board of a group of employees to constitute a unit appropriate for collective bargaining, any question arises as to whether any employee or class of employees is or is not included therein or is included in any other unit, the board shall, on application by the employer or any employee organization affected, determine the question.

**CERTIFICATION**

**Certification of bargaining unit**

27. Where the board

- (a) has received from an employee organization an application for certification as bargaining agent for a bargaining unit in accordance with this Act,
- (b) has determined the group of employees that constitutes a unit appropriate for collective bargaining in accordance with section 25,
- (c) is satisfied that at the date the application was made a majority of employees in the bargaining unit wished the employee organization to represent them as their bargaining agent, and
- (d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to make the application,

the board shall, subject to this Act, certify the employee organization making the application as bargaining agent for the employees in that bargaining unit.

**Powers of board in relation to certification**

28.(1) For the purpose of enabling the board to discharge any obligation imposed by section 27 to satisfy itself as to the matters described in paragraphs 27(c) and (d), the board may

- (a) examine, in accordance with any regulations in that behalf, such evidence as is submitted to it respecting membership of the employees in the proposed bargaining unit in the employee organization seeking certification,
- (b) make or cause to be made such examination of records or make such inquiries as it deems necessary, and
- (c) examine documents forming or relating to the constitution or articles of association of the employee organization seeking certification,

and, in its sole discretion, the board may in any case for the purpose of satisfying itself that a majority of employees in the bargaining unit wish the employee organization to represent them as their bargaining agent, direct that a representation vote be taken among the employees in the bargaining unit.

(2) Where under subsection (1) the board directs that a representation vote be taken, the board shall

- (a) determine the employees that are eligible to vote, and
- (b) make such arrangements and give such directions as to it appear requisite for the proper conduct of the representation vote including the preparation of ballots, the method of casting and counting ballots and the custody and sealing of ballot boxes.

**Organizations not to be certified**

29.(1) The board shall not certify as bargaining agent for a bargaining unit, any employee organization in the formation or administration of which there has been or is, in the opinion of the board, participation by the employer or any person acting on behalf of the employer, of such a nature as to impair its fitness to represent the interests of employees in the bargaining unit.

(2) The board shall not certify as bargaining agent for a bargaining unit, any employee organization that

- (a) receives from any of its members who are employees,
- (b) handles or pays in its own name on behalf of members who are employees, or
- (c) requires as a condition of membership therein the payment by any of its members of,

any money for activities carried on by or on behalf of any political party.

(3) The board shall not certify as bargaining agent for a bargaining unit any employee organization that discriminates against any employee because of sex, race, national origin, colour or religion.

**Effect of certification**

**30.(1)** Where an employee organization is certified under this Act as the bargaining agent for a bargaining unit,

- (a) the employee organization has the exclusive right under this Act
  - (i) to bargain collectively on behalf of employees in the bargaining unit and to bind them by a collective agreement until its certification in respect of the bargaining unit is revoked, and
  - (ii) to represent, in accordance with this Act, an employee in the presentation or reference to adjudication of a grievance relating to the interpretation or application of a collective agreement or arbitral award applying to the bargaining unit to which the employee belongs,
- (b) if another employee organization had been previously certified as bargaining agent in respect of employees in the bargaining unit, the certification of the previously certified bargaining agent is thereupon revoked in respect of such employees, and
- (c) if, at the time of certification, a collective agreement or arbitral award binding on the employees in the bargaining unit is in force, the employee organization shall be substituted as a party to the agreement or award in place of the bargaining agent that had been a party thereto and may, notwithstanding anything contained in the agreement or award, terminate the agreement or award in so far as it applies to the employees in the bargaining unit, upon two months notice to the employer given within one month from such certification.

(2) In any case where paragraphs (1)(b) and (c) apply, any question as to any right or duty of the previous bargaining agent or the new bargaining agent arising by reason of the application of that paragraph shall, on application by the employer or the previous or the new bargaining agent, be determined by the board.

**REVOCATION**

**Revocation on application**

**31.(1)** Where a collective agreement or an arbitral award is in force in respect of a bargaining unit, any person claiming to represent a majority of the employees in that bargaining unit may, in accordance with subsection (2), apply to the board for a declaration that the employee organization certified as bargaining agent for that bargaining unit no longer represents a majority of the employees therein.

- (2) An application under subsection (1) may be made
  - (a) where the collective agreement or arbitral award is for a term of not more than two years, only after the commencement of the last two months of its operation,
  - (b) where the collective agreement or arbitral award is for a term of more than two years, only after the commencement of the 23rd month of its operation and before the commencement of the 25th month of its operation, during the two month period immediately preceding the end of each year that it contin-



ues to operate after the second year of its operation, or after the commencement of the last two months of its operation, as the case may be, and

- (c) where the collective agreement provides that it will continue to operate after the term specified therein for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or with a view to the making of a new collective agreement, at any time permitted by paragraph (a) or (b), as the case may be, or during the two month period immediately preceding the end of each year that the agreement continues to operate after the term specified therein.

(3) Upon an application under subsection (1), the board in its sole discretion may direct the taking of a representation vote in order to determine whether a majority of the employees in the bargaining unit no longer wish to be represented by the employee organization that is the bargaining agent for that bargaining unit, and in relation to the taking of any such vote the provisions of subsection 28(2) apply.

(4) After hearing any application under subsection (1), the board shall revoke the certification of an employee organization as bargaining agent for a bargaining unit if it is satisfied that a majority of the employees in that bargaining unit no longer wish to be represented by the employee organization.

#### **Revocation for abandonment or ineligibility**

32.(1) The board shall revoke the certification of a bargaining agent where the bargaining agent advises the board that it wishes to give up or abandon its certification or where the board, upon application by the employer or any employee, determines that the bargaining agent has ceased to act as such.

(2) Where the board, upon application to the board by the employer or any employee, determines that a bargaining agent would not, if it were an employee organization applying for certification, be certified by the board by reason of a prohibition contained in section 29, the board shall revoke the certification of the bargaining agent.

#### **Revocation for fraud**

33.(1) Where at any time the board is satisfied that an employee organization has obtained certification as bargaining agent for a bargaining unit by fraud, the board shall revoke the certification of such employee organization.

(2) An employee organization the certification of which is revoked pursuant to subsection (1) is not entitled to claim any right or privilege flowing from such certification, and any collective agreement or arbitral award applying to the bargaining unit for which it was certified to which such employee organization was a party is void.

#### **Revocation of certification of council**

34. In addition to the circumstances in which, pursuant to section 31, 32 or 33, the certification of a bargaining agent may be revoked, where an employee organization that is a council of employee organizations has been certified as bargaining agent for a bargaining unit,

the board, on application to it by the employer or an employee organization that forms or has formed part of the council, shall revoke the certification of the council where it determines that, by reason of

- (a) an alteration in the constituent membership of the council, or
- (b) any other circumstance,

the council no longer meets the additional requirements for certification required for a council of employee organizations by subsection 21(2).

**Effect of revocation on agreement or arbitral award**

35. Where at the time the certification of a bargaining agent for a bargaining unit is revoked a collective agreement or arbitral award binding on the employees in that bargaining unit is in force, except where another employee organization is substituted as a party to the agreement or award, upon the revocation of such certification, the agreement or award shall thereupon cease to be in effect.

**Determination of rights of bargaining agent by board**

36. Where the certification of a bargaining agent for a bargaining unit is revoked by the board pursuant to section 31, 32 or 33 any question as to any right or duty of that bargaining agent or of any new bargaining agent replacing it shall, on application by either organization, be determined by the board.

**Recognition of rights of employee after revocation**

37. Where the certification of a bargaining agent for a bargaining unit is revoked by the board pursuant to section 31, 32, 33 or 34 and as a result thereof a collective agreement or arbitral award binding on the employees in the bargaining unit ceases to be in effect or a collective agreement or arbitral award applying to the bargaining unit is void, the board shall, on application to it by or on behalf of any employee and in accordance with any regulations made by it in respect thereof, direct the manner in which any right acquired by, or determined by the board to have accrued to, an employee that is affected by the revocation is to be recognized and given effect to.

**Mergers, amalgamations and transfers of jurisdiction**

38. Where upon a merger or amalgamation of employee organizations or a transfer of jurisdiction among employee organizations otherwise than as a result of revocation of certification, any question arises concerning the rights, privileges and duties of an employee organization under this Act or under a collective agreement or arbitral award in respect of a bargaining unit or an employee therein, the board, on application to it by any employee organization affected, shall examine the question and may, in accordance with any regulations made by it in respect thereof, declare or determine what rights, privileges and duties if any have been acquired or are retained, as the case may be, by that employee organization.

**COLLECTIVE BARGAINING**

**Notice to bargain collectively**

39.(1) Where the board has certified an employee organization as bargaining agent for a bargaining unit,

- (a) the bargaining agent may, on behalf of the employees in the bargaining unit, by notice in writing require the employer to commence bargaining collectively, or

- (b) the employer may by notice in writing require the bargaining agent to commence bargaining collectively,

with a view to the conclusion, renewal or revision of a collective agreement.

(2) Notice to bargain collectively may be given,

- (a) where no collective agreement or arbitral award is in force and no request for arbitration has been made by either of the parties in accordance with this Act, at any time, and
- (b) where a collective agreement or arbitral award is in force, within the period of two months before the agreement or award ceases to operate.

### **Commencement of collective bargaining**

**40.** Where notice to bargain collectively has been given, the bargaining agent and the officers designated to represent the employer shall, without delay, but in any case within 20 days after the notice was given or within such further time as the parties may agree, meet and commence to bargain collectively in good faith and make every reasonable effort to conclude a collective agreement.

### **Continuation of terms and conditions of employment**

**41.** Where notice to bargain collectively has been given, any term or condition of employment applicable to the employees in the bargaining unit in respect of which the notice was given that may be embodied in a collective agreement and that was in force on the day the notice was given, shall remain in force and shall be observed by the employer, the bargaining agent for the bargaining unit and the employees in the bargaining unit, except as otherwise provided by any agreement in that behalf that may be entered into by the employer and the bargaining agent, until such time as,

- (a) in the case of a bargaining unit for which the process for resolution of a dispute is by the referral thereof to arbitration,
  - (i) a collective agreement has been entered into by the parties and no request for arbitration in respect of that term or condition of employment, or in respect of any term or condition of employment proposed to be substituted therefor, has been made in the manner and within the time prescribed therefor by this Act, or
  - (ii) a request for arbitration in respect of that term or condition of employment, or in respect of any term or condition of employment proposed to be substituted therefor, has been made in accordance with this Act and a collective agreement has been entered into or an arbitral award has been rendered in respect thereof, and
- (b) in the case of a bargaining unit for which the process for resolution of a dispute is by the referral thereof to a conciliation board,
  - (i) a collective agreement has been entered into by the parties, or
  - (ii) a conciliation board has been established in accordance with this Act and 14 days have elapsed from the receipt by the chairperson of the report of the conciliation board.

**Statement of essential services**

42.(1) Within 20 days after notice to bargain collectively is given by either of the parties to collective bargaining, or within such further time as the board may direct, the employer shall furnish to the board and the bargaining agent for the relevant bargaining unit a statement in writing of the employees or classes of employees in the bargaining unit whose duties in the opinion of the employer consist in whole or in part of duties the performance of which at any particular time or after any specified period of time is or will be necessary in the interest of the safety or security of the public or public buildings.

(2) If no objection to the statement referred to in subsection (1) is filed with the board by the bargaining agent within such time after the receipt thereof by the bargaining agent as the board may stipulate, such statement shall be taken to be a statement of the employees or classes of employees in the bargaining unit who are agreed by the parties to be designated employees, but where an objection to such statement is filed with the board by the bargaining agent within the time so prescribed, the board, after considering the objection and affording each of the parties an opportunity to make representations, shall determine which of the employees or classes of employees in the bargaining unit are designated employees.

(3) A determination made by the board pursuant to subsection (2) is final and conclusive for all purposes of this Act and shall be communicated in writing by the chairperson to the parties as soon as possible after the making thereof.

(4) Within such time and in such manner as the board may prescribe, all employees in a bargaining unit who are agreed by the parties or determined by the board pursuant to this section to be designated employees shall be so informed by the board.

**Request for conciliation**

43. Where the employer or a bargaining agent advises the board by notice in writing of the inability of the parties to reach agreement on any term or condition of employment that may be embodied in a collective agreement and that it desires the assistance of a conciliator in reaching agreement, the chairperson may appoint a conciliator who shall, forthwith after his appointment, confer with the parties and endeavour to assist them in reaching agreement.

**Report of conciliator**

44. A conciliator shall, within 14 days from the date of his appointment or within such longer period as the chairperson may determine, report his success or failure to the chairperson.

**Authority to enter into collective agreement**

45. The Commissioner in Executive Council may, in such manner as may be provided for by any rules or procedures determined by him pursuant to the Financial Administration Act, enter into a collective agreement with the bargaining agent for a bargaining unit applicable to employees in that bargaining unit.

**Time within which agreement is to be implemented**

46.(1) The provisions of a collective agreement shall, subject to the appropriation by or under the authority of the Legislative Assembly of any money that may be required by the employer therefor, be implemented by the parties,

- (a) where a period within which the collective agreement is to be implemented is specified in the collective agreement, within that period, and
- (b) where no period for implementation is so specified
  - (i) within a period of 60 days from the date of its execution, or
  - (ii) within such longer period as may, on application by either party to the agreement, appear reasonable to the board.

(2) No collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or condition of employment or the establishment of any new term or condition of employment,

- (a) the alteration or elimination of which or the establishment of which, as the case may be, would require or have the effect of requiring the enactment or amendment of any legislation by the Legislature except for the purpose of appropriating money required for its implementation, or
- (b) that has been or may be as the case may be, established pursuant to any enactment of the Legislature or Parliament of Canada except the Public Service Commission Act.

#### **Duration and effect of agreement**

47.(1) A collective agreement has effect in respect of a bargaining unit on and from,

- (a) where an effective date is specified, that day, and
- (b) where no effective date is specified, the first day of the month next following the month in which the agreement is executed.

(2) Where a collective agreement

- (a) contains no provision as to its term, or
- (b) is for a term of less than one year,

the collective agreement shall be deemed to be for a term of one year from the day on and from which it has effect pursuant to subsection (1).

(3) Nothing in subsection (2) shall be construed to prevent the amendment or revision of any provision of a collective agreement, other than a provision relating to the term of the collective agreement, that under the agreement may be amended or revised during the term thereof.

#### **Binding effect of agreement**

48. A collective agreement is, subject to and for the purposes of this Act, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on and from which it has effect pursuant to subsection 47(1).

## **DISPUTES**

#### **Deadlock in negotiations**

49.(1) Where the employer and the bargaining agent for a bargaining unit have, in accordance with section 40, bargained collectively in good faith with a view to concluding a collective agreement but have failed to reach agreement, either party may inform the chairperson that negotiations have broken down and request the chairperson to declare that a deadlock exists.

(2) When, in accordance with subsection (1), one of the parties has advised the chairperson that negotiations have broken down or that a deadlock exists,

- (a) the chairperson may investigate the circumstances and request the parties to resume collective bargaining, and
- (b) upon being satisfied that the parties have bargained in good faith and that a deadlock exists, the chairperson shall forthwith by notice in writing to the parties declare that a dispute exists.

**Process for resolution of dispute**

50.(1) Within five days after the bargaining agent for a bargaining unit has received the notice in writing referred to in subsection 49(2), it shall in such manner as may be prescribed specify which of the processes described in either section 52 or 65 shall be the process for resolution of any dispute to which it is a party in respect of the bargaining unit.

(2) Where the dispute resolution process has been specified by a bargaining agent, the chairperson shall forthwith notify the employer of the specification.

(3) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) shall be the process applicable to that bargaining unit for the resolution of all disputes from the day on which the process is specified until another notice to bargain collectively may be given.

**Provisions of the Act applicable to the process**

51. Where the employer and the bargaining agent for a bargaining unit have bargained collectively in good faith with a view to concluding a collective agreement but have failed to reach agreement,

- (a) if the process for resolution of a dispute applicable to the bargaining unit is by the referral thereof to arbitration, sections 52 to 64 apply to the resolution of the dispute, and
- (b) if the process for resolution of a dispute applicable to the bargaining unit is by the referral thereof to a conciliation board, sections 65 to 76 apply to the resolution of the dispute.

**ARBITRATION**

**Request for arbitration**

52.(1) Where a bargaining agent has specified in accordance with subsection 50(1) that the dispute resolution process applicable to a bargaining unit shall be by the referral thereof to arbitration, either party may by notice in writing to the chairperson given

- (a) at any time, where no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or
- (b) not later than seven days after any collective agreement is entered into by the parties, in any other case,

request arbitration in respect of that term or condition of employment.

(2) Where arbitration is requested by notice under subsection (1), the party making the request shall

- (a) specify in the notice the terms and conditions of employment in respect of which it requests arbitration and its proposals concerning the award to be made by the arbitrator in respect thereof, and
- (b) annex to the notice a copy of any collective agreement entered into by the parties.

#### **Request for arbitration by other party**

53.(1) Where notice under section 52 is received by the chairperson from any party requesting arbitration, the chairperson shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the chairperson by notice in writing of any matter, additional to the matters specified in the notice under section 52, that was a subject of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration.

(2) Where arbitration in respect of any matter is requested by notice under subsection (1), the party making the request shall include in the notice its proposal concerning the award to be made by the arbitrator in respect thereof.

#### **Appointment of arbitrator**

54.(1) Where in respect of any matter in dispute, the employer, the bargaining agent or both have requested arbitration, the chairperson shall, within a period of 14 days from the date of the notice under subsection 52(1) requesting arbitration,

- (a) appoint an arbitrator who shall proceed immediately to a consideration of the matter, and
- (b) send to the parties and to the arbitrator a copy of the notice under section 52 and of any notice under section 53.

(2) A person is not eligible to hold office as an arbitrator if, under subsection 8(1), he would not be eligible to be a member of the board, or if he is a member of the board.

(3) No person shall act as arbitrator in respect of any matter referred to arbitration, if he has at any time since a day six months before the day of his appointment acted in respect of any matter concerning employer-employee relations as a lawyer or agent of the employer or of any employee organization that has any interest in the matter referred to arbitration.

#### **Consideration of dispute and award**

55.(1) Subject to section 58, the matters in dispute specified in the notice under section 52 and in any notice under section 53 sent by the chairperson to the arbitrator constitute the terms of reference of the arbitrator in relation to the request for arbitration, and the arbitrator shall, after considering the matters in dispute together with any other matter that the arbitrator considers necessarily incidental to the resolution of the matters in dispute, render an arbitral award in respect thereof.

(2) Where at any time before an arbitral award is rendered in respect of the matters in dispute referred by the chairperson to the arbitrator, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred

to the arbitrator shall be deemed not to include that matter and no arbitral award shall be rendered by the arbitrator in respect thereof.

**Factors to be taken into account by arbitration**

56. In the conduct of proceedings before him and in rendering an arbitral award in respect of a matter in dispute the arbitrator shall consider

- (a) the needs of the public service for qualified employees,
- (b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the arbitrator may consider relevant,
- (c) the need to maintain appropriate relationships in the conditions of employment as between different class levels within an occupation and as between occupations in the public service,
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered, and
- (e) any other factor that to him appears to be relevant to the matter in dispute.

**Procedure governing hearing and determination of disputes**

57.(1) Subject to this Act and any regulations made by the Commissioner in Executive Council in respect thereof, the arbitrator shall determine his own procedure but shall give full opportunity to both parties to present evidence and make submissions to him.

(2) The arbitrator has all the powers of the board set out in paragraphs 17(a) to (e) and, in addition, may authorize any person to exercise any of the powers of the arbitrator set out in paragraphs 17(b) to (e) and report to the arbitrator thereon.

**Subject matter of arbitral award**

58.(1) Subject to this section, an arbitral award may deal with rates of pay, hours of work, leave entitlements and other terms and conditions of employment directly related thereto.

(2) Subsection 46(2) applies, mutatis mutandis, in relation to an arbitral award.

(3) No arbitral award shall deal with the standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off, release or discipline of employees, or with the classification of positions or with any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof.

(4) An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made.

**Making and form of arbitral award**

59.(1) An arbitral award shall be signed by the arbitrator and copies thereof shall thereupon be transmitted to the parties to the dispute and to the chairperson.



- (2) An arbitral award shall, wherever possible, be made in such form
- (a) as will be susceptible of being
    - (i) read and interpreted with, or
    - (ii) annexed to and published with,
 

any collective agreement dealing with other terms and conditions of employment of the employees in the bargaining unit in respect of which the arbitral award applies, and
  - (b) as will enable its incorporation into and implementation by regulations, bylaws, directives or other instruments that may be required to be made or issued by the employer or the relevant bargaining agent in respect thereof.

### **Effect of arbitral award**

60.(1) An arbitral award is subject to and, for the purposes of this Act, binding on the employer and the bargaining agent that is a party thereto and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on which the award is rendered or such later day as the arbitrator may determine.

(2) Subject to subsection (3), a provision of an arbitral award made in respect of a term or condition of employment may be retroactive to the extent that it is capable of being retroactively applied, in whole or in part, to a day prior to the day on and from which the arbitral award becomes binding on the parties but not before the day on which notice to bargain collectively was given by either party.

(3) Where notice to bargain collectively is given by either party before the termination date of an existing collective agreement or arbitral award, the provisions of an arbitral award may be made retroactive only to the termination date of such collective agreement or arbitral award.

(4) Where in relation to any or all of the provisions of an arbitral award made in respect of terms and conditions of employment, there was previously in effect a collective agreement or arbitral award, the previous collective agreement or the previous arbitral award is displaced to the extent of any conflict, for the term, determined in accordance with section 61, for which the subsequent award is operative.

### **Term of arbitral award**

61.(1) The arbitrator shall in respect of every arbitral award determine and specify therein the term for which the arbitral award is to be operative and, in making its determination, he shall take into account,

- (a) where a collective agreement applicable to the bargaining unit is in effect or has been entered into but is not yet in effect, the term of that collective agreement, and
- (b) where no collective agreement applying to the bargaining unit has been entered into,
  - (i) the term of any previous collective agreement that applied to the bargaining unit, or
  - (ii) the term of any other collective agreement that to the arbitrator appears relevant.

(2) No arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (1)(a) or (b), shall be for a term of less than one year or more than two years from the day on and from which it becomes binding on the parties.

**Implementation of arbitral awards**

62. The rates of pay, hours of work, leave entitlements and other terms and conditions of employment directly related thereto that are the subject of an arbitral award shall, subject to the appropriation by or under the authority of the Legislative Assembly of any money that may be required by the employer therefor, be implemented by the parties within a period of 90 days from the date on and from which it becomes binding on the parties or within such longer period as, on application to the board by either party, appears reasonable to the board.

**Reference back to arbitration**

63. Where in respect of an arbitral award it appears to either of the parties that the arbitrator has failed to deal with any matter in dispute referred to it by the chairperson, such party may, within 14 days from the day the award is rendered, refer the matter back to the arbitrator, and the arbitrator shall thereupon deal with the matter in the same manner as in the case of a matter in dispute referred to it under section 54.

**Authority to amend or vary award**

64. The arbitrator may upon application jointly by both parties to an arbitral award or on referral by the chairperson, amend, alter or vary any provision of that award where it is made to appear to the arbitrator that the amendment, alteration or variation thereof is warranted having regard to circumstances that have arisen since the making of the award or of which the arbitrator did not have notice at the time of the making thereof, or having regard to such other circumstances as the arbitrator deems relevant.

**CONCILIATION BOARDS**

**Request for establishment of conciliation board**

65. Where a bargaining agent has specified in accordance with subsection 50(1) that the dispute resolution process applicable to a bargaining unit shall be by the referral thereof to a conciliation board, either party may, by notice in writing to the chairperson, request the establishment of a conciliation board for the investigation and conciliation of the dispute.

**Establishment of board**

66.(1) Where in respect of a dispute either party has requested the establishment of a conciliation board, or where it appears to the chairperson that the establishment of such a board may serve the purpose of assisting the parties in reaching agreement, the chairperson shall establish a board for the investigation and conciliation of the dispute.

(2) Notwithstanding subsection (1), no conciliation board shall be established for the investigation and conciliation of a dispute in respect of a bargaining unit until

- (a) the parties have agreed or the board has determined pursuant to section 42 the employees or classes of employees in the bargaining unit who are designated employees, and

- (b) any conciliator that may have been appointed under section 43 has made a final report to the chairperson that he has been unable to assist the parties in reaching agreement.

### **Constitution of conciliation board**

**67.(1)** A conciliation board shall consist of three members appointed in the manner provided in this section.

(2) When a conciliation board is to be established, the chairperson shall by notice require each of the parties within seven days from the receipt of such notice to nominate one person each to be a member of the conciliation board, and upon receipt of the nominations within those seven days the chairperson shall appoint the persons so nominated as members of the conciliation board.

(3) If either of the parties fails to nominate a person within seven days from the receipt by it of the notice referred to in subsection (2), the chairperson shall appoint as a member of the conciliation board a person he deems fit for the purpose, and such member shall be deemed to have been appointed on the nomination of that party.

(4) The two members appointed under subsection (2) or (3) shall, within five days after the day on which the second of them was appointed, nominate a third person who is ready and willing to act to be chairperson of the conciliation board, and the chairperson of the Yukon Public Service Staff Relations Board shall thereupon appoint such person as the chairperson of the conciliation board.

(5) If the two members appointed under subsection (2) or (3) fail to make such a nomination within five days after the second of them was appointed, the chairperson shall forthwith appoint as the chairperson of the conciliation board a person he deems fit for the purpose.

(6) The provisions of subsections 54(2) and (3) apply *mutatis mutandis* in relation to the qualification of persons to act as members of a conciliation board.

(7) The members of a conciliation board are entitled to be paid such per diem or other allowances with respect to the performance of their duties under this Act as may be fixed by the Commissioner in Executive Council.

### **Vacancy in the membership of conciliation boards**

**68.** Where any vacancy occurs in the membership of a conciliation board before the board has reported its findings and recommendations to the chairperson of the Yukon Public Service Staff Relations Board, the vacancy shall be filled by him by appointment in the manner provided in section 67 for the selection of the person in respect of whom the vacancy arose.

### **Notification of establishment of conciliation board**

**69.(1)** Forthwith upon the establishment of a conciliation board, the chairperson of the Yukon Public Service Staff Relations Board shall notify the parties of its establishment and of the names of its members.

(2) Upon the notification of the parties by the chairperson of the establishment of a conciliation board, it shall be conclusively presumed that the conciliation board described in the notice has been established in accordance with this Act, and no order shall be made or process entered, and no proceedings shall be taken in any court, to question the establishment of the conciliation board or to review, prohibit or restrain any of its proceedings.

**Terms of reference of conciliation board**

70. Forthwith upon the establishment of a conciliation board, the chairperson of the Yukon Public Service Staff Relations Board shall deliver to the conciliation board a statement setting forth the matters on which the board shall report its findings and recommendations to him, and he may, either before or after the report to him of its findings and recommendations, amend such statement by adding thereto or deleting therefrom any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement.

**Duties and procedure of conciliation board**

71.(1) A conciliation board shall, as soon as possible after the receipt by it of the statement referred to in section 70, endeavour to bring about agreement between the parties in relation to the matters set forth in the statement.

(2) Except as otherwise provided in this Act, a conciliation board may determine its own procedure, but shall give full opportunity to both parties to present evidence and make representations.

(3) The chairperson of a conciliation board may, after consultation with the other members of the board, fix the times and places of its sittings and shall notify the parties of the time and places so fixed.

(4) The chairperson of a conciliation board and one other member constitute a quorum, but in the absence of a member at any sitting of the board the other members shall not proceed unless the absent member has been given reasonable notice of the sitting.

(5) A decision of a majority of the members of a conciliation board on any matter referred to it is a decision of the board thereon.

(6) The chairperson of a conciliation board shall forward to the chairperson of the Yukon Public Service Staff Relations Board a detailed statement signed by him of the sittings of the conciliation board and of the members and witnesses present at each sitting.

**Powers of conciliation board**

72. A conciliation board has all the powers of the board set out in paragraphs 17(a) to (e) and, in addition, may authorize any person to exercise any of the powers of the conciliation board as set out in paragraphs 17(b) to (e), and report to the conciliation board thereon.

**Report of conciliation board**

73.(1) A conciliation board shall, within 14 days after the receipt by it of the statement referred to in section 70 or within such longer period as may be agreed upon by the parties or determined by the chairperson of the Yukon Public Service Staff Relations board, report its findings and recommendations to him.

(2) Subsection 46(2) applies, *mutatis mutandis*, in relation to a recommendation in a report of a conciliation board.

(3) No report of a conciliation board shall contain any recommendation concerning the standards, procedure or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off, release or discipline of employees, or with the classification of positions.

(4) After a conciliation board has reported to the chairperson of the Yukon Public Service Staff Relations Board, its findings and recommendations on the matters set forth in the statement referred to in section 70, he may direct it to reconsider and clarify or amplify its report or any part thereof or to consider and report on any matter added to such statement pursuant to that section, except that in any such case the report of the conciliation board shall be deemed to have been received by the chairperson of the Yukon Public Service Staff Relations Board notwithstanding that the reconsidered report or the report on the added matter, as the case may be, has not been received by him.

#### **Copy of report to be sent to parties**

74. On receipt of the report of a conciliation board, the chairperson of the Yukon Public Service Staff Relations Board shall forthwith cause a copy thereof to be sent to the parties and may cause the report to be published in such manner as he sees fit.

#### **Report as evidence**

75. No report of a conciliation board, and no testimony or proceedings before a conciliation board, are receivable in evidence in any court in the Yukon except in the case of a prosecution for perjury.

#### **Binding effect where agreed by parties**

76. Where at any time before a conciliation board has made its report the parties so agree in writing, a recommendation made by a conciliation board shall be binding on the parties, subject to and for the purposes of this Act, and shall be given effect to accordingly.

### **ADJUDICATION OF GRIEVANCES**

#### **Right of employee to present grievance**

77.(1) Where any employee feels himself to be aggrieved

- (a) by the interpretation or application in respect of him of
  - (i) a provision of an Act, or of a regulation, bylaw, direction or other instrument made or issued by the employer, dealing with terms and conditions of employment, or
  - (ii) a provision of a collective agreement or an arbitral award, or
- (b) as a result of any occurrence or matter affecting his terms and conditions of employment, other than a provision described in clause (a)(i) or (a)(ii)

in respect of which no administrative procedure for redress is provided in or under an Act, he is entitled, subject to subsection (2), to present the grievance at each of the levels, up to and including the final level, in the grievance process provided for by this Act.

(2) An employee is not entitled to present any grievance relating to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award unless he has the approval of and is represented by the bargaining agent for the bargaining unit to

which the collective agreement or arbitral award applies, or any grievance relating to any action taken pursuant to an instruction, direction or regulation given or made as described in section 100.

(3) An employee who is not included in a bargaining unit for which an employee organization has been certified as bargaining agent may seek the assistance of and, if he chooses, may be represented by any employee organization in the presentation of a grievance.

(4) No employee who is included in a bargaining unit for which an employee organization has been certified as bargaining agent may be represented by any employee organization, other than the employee organization certified as such bargaining agent, in the presentation or reference to adjudication of a grievance.

(5) Notwithstanding anything contained in subsections (1) to (4) the bargaining agent may present a grievance to the employer on behalf of one or more members of the bargaining unit with respect to the interpretation or application of a collective agreement or arbitral award in accordance with the grievance procedure provided for in this Act.

**Reference to adjudication**

78.(1) Where an employee has presented a grievance up to and including the final level in the grievance process with respect to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award, and his grievance has not been dealt with to his satisfaction, he may, subject to subsection (2) refer the grievance to adjudication.

(2) The employee is not entitled to refer the grievance to adjudication unless the bargaining agent for the bargaining unit to which the collective agreement or arbitral award applies signifies in the prescribed manner

- (a) its approval of the reference of the grievance to adjudication, and
- (b) its willingness to represent the employee in the adjudication proceedings.

(3) An employee is not entitled to refer a grievance respecting release for cause during or at the end of his probationary period to adjudication.

(4) A grievance submitted by the bargaining agent to the employer in accordance with subsection 77(5) may be referred to an adjudicator who shall determine the question and whose decision upon the matter shall be final and binding.

**Adjudication system**

79.(1) The board shall appoint such officers, to be called adjudicators, as may be required to hear and adjudicate upon grievances referred to adjudication under this Act or under section 24 of the Public Service Commission Act.

(2) The chairperson shall administer the system of grievance adjudication established under this Act and may designate one of the adjudicators appointed under this section to administer the system of grievance adjudication established under this Act on his behalf.

(3) Subsections 54(2) and (3) apply mutatis mutandis in relation to the eligibility of a person to hold office or act as an adjudicator or to be named as an adjudicator in a collective agreement, in respect of any grievance referred to adjudication.

(4) An adjudicator appointed pursuant to this section has in relation to the hearing of any grievance referred to him under this Act the power

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as he deems requisite to the full investigation and consideration of matters within his jurisdiction in the same manner and to the same extent as a judge of the Supreme Court,
- (b) to administer oaths and affirmations,
- (c) to receive and accept such evidence and information on oath, affidavit or otherwise as in his discretion he sees fit, whether admissible in a court of law or not.

#### **Notice and reference to adjudicator**

80.(1) Where a grievance has been referred to adjudication the aggrieved employee shall, in the manner prescribed, notify the chairperson and the employer and shall specify in the notice whether an adjudicator is named in the applicable collective agreement.

(2) Where a grievance has been referred to adjudication and the aggrieved employee has notified the chairperson and the employer as required by subsection (1), the chairperson shall, in the manner and within the time prescribed,

- (a) where an adjudicator is named in a collective agreement, refer the matter to the adjudicator so named, and
- (b) in any other case, refer the matter to an adjudicator selected by him.

#### **Jurisdiction of adjudicator**

81.(1) Subject to any regulation made by the Commissioner in Executive Council under paragraph 85(1)(d), no grievance shall be referred to adjudication and no adjudicator shall hear or render a decision on a grievance until all procedures established for the presenting of the grievance up to and including the final level in the grievance process have been complied with.

(2) No adjudicator shall, in respect of any grievance, render any decision thereon the effect of which would be to require the amendment of a collective agreement or an arbitral award.

(3) Where

- (a) a grievance has been presented up to and including the final level in the grievance process, and
  - (b) the grievance is not one that under section 78 may be referred to adjudication,
- the decision on the grievance taken at the final level in the grievance process is final and binding for all purposes of this Act and no further action under this Act may be taken thereon.

#### **Hearing and decision**

82.(1) Where a grievance is referred to adjudication, the adjudicator shall give both parties to the grievance an opportunity of being heard.

- (2) After considering the grievance, the adjudicator shall render a decision thereon and
- (a) send a copy thereof to each party and his or its representative and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and
  - (b) deposit a copy of the decision with the chairperson.

(3) Where a decision on any grievance referred to adjudication requires any action by or on the part of the employer, the employer shall take such action.

(4) Where a decision on any grievance requires any action by or on the part of an employee or a bargaining agent or both of them, the employee or bargaining agent or both, as the case may be, shall take such action.

(5) The board may, in accordance with section 16, take such action as is contemplated by that section to give effect to the decision of an adjudicator on a grievance but shall not enquire into the basis or substance of the decision.

### **Expenses of adjudication**

83.(1) Where an adjudicator is named in a collective agreement, the method of determining his remuneration and of defraying such expenses as he may incur shall be as established in the collective agreement naming the adjudicator, but if the agreement does not specify such method, the named adjudicator's remuneration and his expenses shall be borne by the parties.

(2) Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, the bargaining agent is liable to pay and shall remit to the board such part of the costs of the adjudication as may be determined by the board.

(3) Any amount that by subsection (2) is payable to the board by a bargaining agent may be recovered as a debt due to the Government of the Yukon by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person.

### **Adjudication without grievance**

84.(1) Where

- (a) the employer or the bargaining agent seeks to enforce an obligation that is alleged to arise out of a collective agreement or arbitral award, and
- (b) the obligation, if any, is not an obligation the enforcement of which may be the subject of a grievance of an employee in the bargaining unit to which the collective agreement or arbitral award applies,

either the employer or the bargaining agent may, in the prescribed manner, refer the matter to adjudication, and the chairperson shall refer the matter to an adjudicator selected by him who shall hear and determine whether there is an obligation as alleged and whether, if there is, there has been a failure to observe or to carry out the obligation.

(2) The adjudicator selected in the manner provided in subsection (1) shall hear and determine the matter so referred to him as though it were a grievance, and subsection 81(2) and sections 82 and 83 apply to its hearing and determination.



**Regulations respecting grievances**

**85.(1)** The Commissioner in Executive Council may, on the recommendation of the board, make regulations in relation to the procedure for the presenting of grievances, including regulations respecting

- (a) the manner and form of presenting a grievance;
- (b) the maximum number of levels of officers of the employer to whom grievances may be presented;
- (c) the time within which a grievance may be presented up to any level in the grievance process including the final level;
- (d) the circumstances in which any level below the final level in the grievance process may be eliminated;
- (e) in any case of doubt, the circumstances in which any occurrence or matter may be said to constitute a grievance.

(2) Any regulations made by the Commissioner in Executive Council under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

(3) The Commissioner in Executive Council, on the recommendation of the board, may make regulations in relation to the adjudication of grievances, including regulations respecting

- (a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the chairperson to an adjudicator;
- (b) the procedure to be followed by adjudicators with regard to the powers vested in them by subsection 79(4);
- (c) the form of decisions rendered by adjudicators.

(4) For the purposes of any provision of this Act respecting grievances, the employer shall designate the person whose decision on a grievance constitutes the final or any level in the grievance process and the employer shall, in any case of doubt, by notice in writing advise any person wishing to present a grievance, or the chairperson, of the person whose decision thereon constitutes the final or any level in such process.

**MISCELLANEOUS****Review of orders**

**86.(1)** Except as provided in this Act, every order, award, direction, decision, declaration or ruling of the board, an arbitrator or an adjudicator is final and shall not be questioned or reviewed in any court.

(2) No order shall be made or process entered, and no proceedings shall be taken in any court, whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the board, an arbitrator or an adjudicator in any of its or his proceedings.

**Participation by employee in strike**

87.(1) No employee shall participate in a strike

- (a) who is not included in a bargaining unit for which a bargaining agent has been certified by the board,
- (b) who is included in a bargaining unit for which the process for resolution of a dispute is by the referral thereof to arbitration, or
- (c) who is a designated employee.

(2) No employee who is not an employee described in subsection (1) shall participate in a strike where a collective agreement applying to the bargaining unit in which he is included is in force, or where no collective agreement applying to the bargaining unit in which he is included is in force, unless

- (a) a conciliation board for the investigation and conciliation of a dispute in respect of that bargaining unit has been established and 14 days have elapsed from the receipt by the chairperson of the report of the conciliation board, and
- (b) a notice of intention to strike and the time the strike will commence has been delivered to the employer by the bargaining agent not less than 48 hours before the commencement of the strike.

(3) Where subsections (1) and (2) are complied with, employees may strike and during the continuance of the strike

- (a) the employer shall not replace the striking employees or fill their positions with any other employees, and
- (b) no employee shall picket, parade or in any manner demonstrate in or near any place of business of the employer.

**Declaration of authorization of strike**

88. No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel or procure the declaration or authorization of a strike of employees or the participation of employees in a strike, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 87.

**Legality of application for declaration of strike**

89.(1) Where it is alleged by the employer that an employee organization has declared or authorized a strike of employees, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 87, the employer may apply to the board for a declaration that the strike is or would be unlawful and the board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration.

(2) Where it is alleged by a bargaining agent for a bargaining unit that the participation of employees included in the bargaining unit in a strike authorized or declared, or proposed to be authorized or declared, by the bargaining agent is not or would not be in contravention of section 87, the bargaining agent may apply to the board for a declaration that the strike is or would be lawful and the board, after affording an opportunity to the employer to be heard on the application, may make such a declaration.

**Offences and penalties**

90.(1) Every employee who contravenes section 87 commits an offence and is liable on summary conviction to a fine not exceeding \$100.

(2) Every officer or representative of an employee organization who contravenes section 88 commits an offence and is liable on summary conviction to a fine not exceeding \$300.

(3) Every employee organization that contravenes section 88 commits an offence and is liable on summary conviction to a fine not exceeding \$10 for each employee in the relevant bargaining unit for each day that any strike declared or authorized by it in contravention of that section is or continues in effect.

**Prosecution of employee organization**

91. A prosecution for an offence under section 90 may be brought against an employee organization and in the name of that organization, and for the purposes of any such prosecution an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the scope of his authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization.

**Consent of board to prosecutions**

92. No prosecution arising out of an alleged failure by any person to comply with this Act and no prosecution for an offence under this Act shall be instituted except with the consent of the board.

**Protection of members and staff**

93. No member of the board, or of a conciliation board, and no arbitrator or adjudicator, conciliator or officer or employee of or person appointed by the board shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Act.

**Witness fees**

94. A person who is summoned by the board, an arbitrator or a conciliation board to attend as a witness in any proceedings thereof taken pursuant to this Act, and who so attends, is entitled to be paid an allowance for expenses determined in accordance with the scale for the time being in force with respect to witnesses in civil suits in the Supreme Court.

**Oaths and affirmations**

95. A person appointed under this Act shall, before entering upon his duties, take an oath or affirmation in the form prescribed before any person authorized by the Commissioner in Executive Council to take such oath or affirmation.

**Provision of facilities and staff**

96. The Executive Council Member shall provide the board, an arbitrator, a conciliation board and an adjudicator with quarters and staff and such other facilities as are necessary to enable it or him to carry out its or his functions under this Act.

**Application of Public Service Superannuation Act (Canada)**

97. Unless the Commissioner in Executive Council otherwise orders in any case or class of cases, a person appointed under this Act shall be deemed not to be employed in the public service for the purposes of the Public Service Superannuation Act (Canada).

**Right of membership in employee organization**

98. Every employee may be a member of an employee organization and may participate in the lawful activities of the employee organization of which he is a member.

**Notices**

99. Where a notice or other document is required to be filed or made by this Act, such notice or other document shall be deemed to be filed or made

- (a) at the time it is received by the board, or
- (b) where it is mailed by registered mail and addressed to the board, at the time it is mailed.

**Limitation respecting safety or security**

100.(1) Nothing in this or any other Act shall be construed to require an employee to do or refrain from doing anything contrary to any instruction, direction or regulation given or made by or on behalf of the Commissioner in Executive Council in the interest of the safety or security of the Yukon.

(2) For the purposes of subsection (1), any order made by the Commissioner in Executive Council is conclusive proof of the matters stated therein in relation to the giving or making of any instruction, direction or regulation by or on behalf of the Commissioner in Executive Council in the interest of the safety or security of the Yukon.

**Annual report**

101. As soon as possible after the end of each year, the board shall prepare and submit to the Executive Council Member a report on the administration of this Act during that year and the Executive Council Member shall lay the board's report before the Legislative Assembly within 15 days after receipt thereof or, if the Legislative Assembly is not then sitting, on any of the first 15 days next thereafter that the Legislative Assembly is sitting.

**Reference to courts**

102. Where any question of law or jurisdiction arises in connection with a matter than has been referred to an arbitrator or to an adjudicator pursuant to this Act the arbitrator or adjudicator may, at any stage of the proceedings, and shall, if so directed by a judge of the Supreme Court, state in the form of a special case for the opinion of a judge, any such question of law or jurisdiction arising but the stating of such case shall not operate to suspend any proceedings in connection with that matter unless the arbitrator or adjudicator or a judge determines that the nature of the question warrants a suspension of the proceedings.

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# CHAPTER 143

## PUBLIC UTILITIES ACT

### Interpretation

#### 1. In this Act,

- “board” means the Yukon Utilities Board established by section 2;
- “compensation” means a rate, remuneration, gain or reward of any kind paid, payable, promised, demanded, received or expected directly or indirectly by a public utility, and includes a promise or undertaking by a public utility to provide service as consideration for, or as part of, a proposal or contract to dispose of land or any interest in it;
- “costs” includes fees, counsel fees and expenses;
- “expenses” includes expenses of the board;
- “gas” means all natural gas both before and after it has been subjected to any treatment or process by absorption, purification, scrubbing or otherwise, and includes all fluid hydrocarbons not recovered in liquid form from a pool by ordinary production methods;
- “public hearing” means a hearing of which public notice is given, which is open to the public, and at which any person the board determines has an interest in the matter may be heard;
- “member” means a member of the board;
- “public utility” means a person, or his lessee, trustee, receiver or liquidator, who owns or operates in the Yukon equipment or facilities for the production, generation, storage, transmission, sale, delivery or furnishing of electricity or gas to or for the public or a corporation for compensation, but does not include a person not otherwise a public utility who
- (a) furnishes service only to himself, his employees or tenants,
  - (b) is engaged in the petroleum industry or in the well-head production of oil, natural gas or other natural petroleum substances, or
  - (c) sells or delivers gas otherwise than by means of a pipeline;
- “rate” includes a general, individual or joint rate, fare, toll, charge, rental or other compensation charged or chargeable by a public utility, any rule, regulation, practice, measurement, classification or contract of a public utility relating to a rate, and any schedule or tariff respecting a rate;
- “service” includes the use and accommodation provided and a product or commodity furnished by a public utility, and also the plant, equipment, apparatus, appliances, property and facilities employed by or in connection with a public utility in providing service or in furnishing a product or commodity for the purposes in which the public utility is engaged.

### PART 1

#### YUKON UTILITIES BOARD

##### Yukon Utilities Board

2.(1) The Yukon Utilities Board is established, composed of not fewer than three nor more than five persons appointed by the Executive Council Member.

(2) The board is responsible to the Executive Council Member for the administration of this Act.

**Term of office**

3.(1) The term of office for which a member may be appointed is three years.

(2) A member is eligible for re-appointment on the expiration of his term of office.

**Substitute members**

4.(1) The Executive Council Member may appoint a substitute member to act in the place of a member who is for any reason unable to perform his duties.

(2) Where a substitute member is appointed under subsection (1), he may attend all meetings of the board notwithstanding that there is no vacancy in the permanent membership, but he shall not vote unless one of the permanent members is absent.

**Expenses of members**

5. A member may be paid transportation, accommodation and living expenses incurred in connection with the performance of his duties as a member of the board away from his ordinary place of residence but, except as otherwise provided by the regulations, the payment of such expenses shall conform as nearly as possible in all respects to the payment of such expenses for members of the public service of the Yukon.

**Chairperson and vice-chairperson**

6.(1) The Executive Council Member shall appoint one of the members to be the chairperson and another to be the vice-chairperson.

(2) The chairperson is the chief executive officer of the board, and he shall

- (a) supervise and direct the work of the board, and
- (b) preside at sittings of the board.

(3) Where the chairperson is unable at any time for any reason to exercise the powers or perform the duties of his office, the vice-chairperson may act in his place.

**Board meetings**

7.(1) The board shall meet at the call of the chairperson, who shall convene such meetings as may be necessary for the conduct of the business of the board.

(2) Notwithstanding subsection (1), the board shall meet at least twice a year.

**Decisions of the board**

8.(1) A majority of the members is a quorum, but no quorum exists unless the chairperson or vice-chairperson is present.

(2) Subject to subsection (1), a decision of a majority of the members present at a meeting of the board is a decision of the board, but in the event of an evenly divided opinion between members including the chairperson, the matter shall be decided in accordance with the vote of the chairperson.

**Vacancies in the membership of the board**

9. A vacancy in the membership reduces the number of members required for a quorum and, subject to section 8, does not impair the right of the remaining members to act.

**Rules of the board**

10.(1) Subject to this Act, the board may by order make rules respecting

- (a) the conduct of its meetings and business,
- (b) the notices authorized or required to be given under this Act,
- (c) the records to be kept in respect of its business, including the custody, preservation and provision of access to such records,
- (d) the procedure for making applications and representations to the board,
- (e) the conduct of hearings by or before the board,
- (f) the filing and investigation of complaints, including the information to be provided in support of complaints, and
- (g) generally, the procedures of the board and any other matter that reasonably is necessary for the effective and orderly conduct of the business of the board.

(2) Orders under this section shall be published in the Yukon Gazette.

**Conflict of interest**

11.(1) Where a member has a direct or indirect personal interest in a matter or a corporation under review by the board, he shall refrain from participating in any way in the review of the matter or corporation by the board.

(2) A member shall not, directly or indirectly,

- (a) hold or acquire a beneficial interest in any share or other security of a corporation or other person subject to regulation under this Act,
- (b) have a significant beneficial interest in all or part of any article or process that is required or used by a corporation or other person referred to in paragraph (a) for the purpose of its equipment or service, or
- (c) have a significant beneficial interest in a contract for the construction of works or the furnishing of a service for or by a corporation or other person referred to in paragraph (a).

(3) A member in whom a beneficial interest referred to in subsection (2) is or becomes vested shall, within three months after his appointment or acquisition of the property, as the case may be, divest himself of the interest.

(4) The use or purchase for personal or domestic purposes of heat, light, power, electricity or gas or service from a corporation or other person subject to regulation under this Act is not a contravention of this section and does not disqualify a member from acting in any matter affecting the corporation or other person.

**Confidentiality of board information**

12.(1) Every member and every official of the board, and every person involved in the administration of this Act, shall keep confidential from all other persons all information acquired by him in confidence in the course of his duties, except insofar as disclosure is necessary for the administration of this Act or the board authorizes the release of the information.

(2) No person referred to in subsection (1) shall be required to testify in a civil action to which the board is not a party about information obtained by him in the discharge of his duty.

**Board staff and records**

**13.(1)** Subject to the Public Service Commission Act, the Executive Council Member may make provision for a secretary to the board and other administrative support services for the board.

(2) The secretary shall

- (a) keep a record of the proceedings of the board,
- (b) ensure that copies of every rule and order of the board are filed in the records of the board, and
- (c) carry out the instructions and directions of the board under this Act or the regulations respecting his duties or office.

(3) On the application of any person who pays the prescribed fee, the secretary shall give him a certified copy of any rule or order of the board, or report of the board under section 19.

(4) An acting secretary may be appointed or assigned in the absence of the secretary.

**Technical assistance**

**14.** The Executive Council Member may, at the request of the board, from time to time engage one or more persons having special technical or other knowledge to inquire into and report to the board on any matter arising in connection with the business of the board.

**Inquiry by board member**

**15.(1)** The board or the chairperson may authorize one or more of the members to inquire into and report to the board on any question or matter arising in connection with the business of the board.

(2) A member authorized pursuant to this section to report to the board on a question has and may exercise all the powers of the board for the purpose of taking evidence or acquiring the necessary information for the purposes of his report.

(3) The report of a member under this section may be adopted as an order of the board or otherwise dealt with as the board considers proper.

**Use of public service by the board**

**16.(1)** Subject to subsection (2), for the purpose of carrying out the duties and exercising the powers imposed or conferred on it under this Act, the board may avail itself of the services of any officer or employee of any board, commission, agency or department of the Government of the Yukon.

(2) Every officer or employee of a board, commission, agency or department of the Government of the Yukon shall give to the board whatever service, assistance and information he is able to give and the board requires, subject to the approval of the Executive Council Member in charge of the administration of the service in which the officer or employee is employed.



**Directions from the Commissioner in Executive Council**

17.(1) Notwithstanding any other provision of this Act, the board shall comply with any general or special direction of the Commissioner in Executive Council with respect to the exercise of the powers and functions of the board.

(2) A direction under subsection (1) is a regulation within the meaning of the Regulations Act.

(3) The board may request a review of a direction under subsection (1), and upon receipt of such a request from the board by the Executive Council Member, the Commissioner in Executive Council may

- (a) suspend or continue the operation of the direction pending the completion of a review, or
- (b) confirm, vary or revoke the direction.

(4) The board may, in respect of any matter arising in connection with the business of the board, transmit to the Executive Council Member a request that the Commissioner in Executive Council issue a direction under this section.

(5) Where a direction is issued under this section during the course of any matter under consideration by the board, any party to the matter

- (a) may be granted such adjournment as the board considers necessary to deal with any change in circumstances, and
- (b) may be awarded such costs as the board considers just and fair in the circumstances.

**Investigations and duties of the board**

18.(1) The board shall conduct such investigations, make such reports and perform such duties in addition to the duties assigned to it by this Act, as the Executive Council Member may request.

(2) Where the Executive Council Member requests a report from the board on a matter of general public policy, the board may seek such representations from the public or from interested persons or organizations as the board considers appropriate and, subject to section 50, may hold hearings.

(3) A report requested pursuant to subsection (1) shall be delivered within such time as the Executive Council Member may specify.

(4) A report under this section is not binding on the Executive Council.

**Annual report of the board**

19. The board shall make a report to the Executive Council Member not later than June 30 in each year upon the activities and affairs of the board during the year ending on March 31 of that year.

## **PART 2**

### **REGULATION OF PUBLIC UTILITIES**

#### **Franchise requirement**

20. No public utility shall operate in the Yukon unless it has been granted a franchise by the Commissioner in Executive Council.

#### **Grant of franchise**

21.(1) The Commissioner in Executive Council may, with the approval of the board and subject to such terms and conditions as the board may recommend,

- (a) grant a franchise to a public utility, or
- (b) renew, alter or revoke a franchise granted to a public utility or deemed by section 77 to have been granted.

(2) The board may give its approval for the purposes of subsection (1) where, after hearing representations from, or with the consent of, such persons as the board considers appropriate, the board determines that

- (a) the franchise is necessary and proper for the public convenience and properly conserves the public interests,
- (b) the scheme proposed is reasonable and sufficient having regard to the general circumstances, and
- (c) having regard to the availability of any other source of supply in the area to be served and to any other circumstances, the granting of the franchise is to the general benefit of any area directly or indirectly affected by it.

(3) The board may, in approving the grant, renewal or alteration of a franchise, recommend the imposition of any terms or conditions as to construction, equipment, maintenance, service or operation that, in the opinion of the board, the public convenience or interest reasonably requires.

#### **Interim permission**

22. Notwithstanding section 20, where in respect of any place no franchise has been granted, the board may recommend to the Commissioner in Executive Council that an interim permission be granted to a person to operate a public utility, subject to such terms and conditions as the board may recommend.

#### **Books and records of public utilities**

23.(1) Every public utility shall

- (a) keep such books, records and accounts as afford a reasonable understanding of the conduct of its business, and
- (b) maintain depreciation, amortization and depletion accounts in accordance with such rates and methods as the board directs.

(2) A public utility shall not change its accounting practices under subsection (1) except with the prior approval of the board.

#### **Review by the board**

24.(1) The board may review the affairs, earnings and accounts of any public utility.

(2) A person whose interest, in the opinion of the board, is affected or likely to be affected by the result of a review is entitled, on payment of reasonable costs, to obtain from the board the result of the review, including all information in the board's possession in respect of the earnings of the public utility.

### **Reports to the board**

25.(1) Every public utility shall, within three months after the end of each of its fiscal years, file with the board

- (a) a statement showing its rates,
- (b) financial statements for the fiscal year in such form and verified in such manner as the board may direct, and
- (c) a statement setting forth the name, address and duties of every officer and every director of the public utility.

(2) A public utility shall notify the board within ten days of every change in its officers or directors.

### **Maintenance of property and equipment**

26. Every public utility shall maintain its property and equipment in such condition as to provide safe, adequate and proper service.

### **Board orders**

27. The board may make orders

- (a) fixing rates of a public utility,
- (b) prohibiting or limiting any proposed rate change,
- (c) fixing proper and adequate rates and methods of depreciation, amortization or depletion in respect of the property of any public utility,
- (d) fixing just and reasonable standards, classifications, regulations, practices, measurements or services to be observed, provided or followed by a public utility,
- (e) determining the areas to which a public utility shall provide service, and requiring the public utility to establish, construct, maintain and operate any reasonable expansion of its existing services, and
- (f) determining the conditions that may be imposed by a public utility to establish, construct, maintain or operate an expansion of its existing services.

### **Rate changes**

28.(1) No public utility shall charge any rate for the supply of the service for which it is franchised other than the rate set by the board pursuant to this Act unless, 90 days before it proposes to charge a different rate,

- (a) a statement showing the new rate is filed with the board, and
- (b) a notice showing the new rate is sent by mail or delivered to each municipality within which the service is provided and to the Executive Council Member.

(2) No public utility shall commence to charge a new rate except upon receipt from the board of an order or interim order authorizing it to do so.

**Factors affecting rates**

**29.** In fixing rates that a public utility is permitted to charge,

- (a) the board may consider the revenues and costs of the public utility in the fiscal year in which the proceedings for fixing the rates and charges commenced or in any period immediately following, without considering the allocation of those revenues and costs to any part of such period,
- (b) the board may give effect to that part of any excess of revenue received or deficiency incurred that is in the opinion of the board applicable to the whole of the fiscal year of the public utility in which the proceeding was initiated as the board considers just and reasonable,
- (c) the board may give effect to such part of any excess revenue received or deficiency incurred after the commencement of the proceeding as the board determines has been due to undue delay in the hearing and determining of the matter, and
- (d) the board shall by order approve the method by which and the period during which any excess revenue received or deficiency incurred is to be used or dealt with.

**Guidelines respecting cost increases**

**30.**(1) The board, by order, may issue guidelines to be followed by any public utility that generates electricity by the use of petroleum products purchased pursuant to a contract under which provision is made for

- (a) the progressive increase in their cost to the public utility, or
- (b) the redetermination of their cost either by agreement of the parties or pursuant to arbitration.

(2) Guidelines under subsection (1) may make provision for establishing a new schedule of rates to be charged by the public utility occasioned by any change in the cost of petroleum products.

(3) Nothing in this section limits the jurisdiction of the board to fix rates under section 27.

(4) This section applies, with any necessary changes, where a public utility purchases electrical power from a producer for distribution and sale to the public.

(5) Where a public utility enters into a contract under which provision is made for any of the matters referred to in subsection (1) or (4), it shall file a copy of the contract with the board.

**Contracts fixing rates**

**31.** Any contract for the supply of a service to a person by a public utility that fixes a fixed or variable rate either for a present or future supply of the service is deemed to include a clause under which the board has the jurisdiction, on application of one of the parties, to increase or reduce the rate to a rate that the board considers fair and reasonable.

**Rate base of public utilities**

32.(1) The board, by order, shall determine a rate base for the property of a public utility used or required to be used to provide service to the public, and may include a rate base for property under construction, or constructed or acquired, and intended to be used in the future to provide service to the public.

(2) The board, by order, shall fix a fair return on the rate base.

(3) In determining a rate base the board shall give due consideration to the cost of the property when first devoted to public utility use, to prudent acquisition cost less depreciation, amortization or depletion, and to necessary working capital.

(4) In fixing the fair return that the public utility is entitled to earn on the rate base, the board shall give due consideration to all those facts that in the opinion of the board are relevant.

(5) Notwithstanding the other provisions of this section, the board may adopt any just and reasonable basis for determining a method of calculating a fair return on property that is being constructed or that has been constructed or acquired but is not yet being used to provide service to the public.

**Service extensions**

33.(1) The board shall not require a public utility to construct, maintain or operate an extension of its existing services unless, in the judgment of the board,

- (a) the extension is reasonable and practical and will furnish sufficient business to justify the expense of its construction, maintenance and operation, and
- (b) the financial position of the public utility reasonably warrants the capital expenditure required.

(2) The Commissioner in Executive Council may, by direction under section 17, instruct the board to require a public utility to construct, maintain or operate an extension of its existing services notwithstanding subsection (1), but where he does so the public utility is not required to construct, maintain or operate the extension except upon the agreement of the Commissioner in Executive Council

- (a) to pay any additional expenses incurred by the public utility that are not justified under paragraph (1)(a), and
- (b) to underwrite any capital expenditure not reasonably warranted under paragraph (1)(b).

**Joint use of equipment**

34.(1) Where it is in the public interest or, as a means of saving expense, it is in the interest of public utilities or telecommunications companies that there be a joint use of poles, conduits or equipment or other means of distribution, the board may, after notice to all parties concerned, in cases where it is practicable,

- (a) order the joint use,
- (b) declare the terms of the joint use, and
- (c) make any other orders for the convenient carrying out of the work and the operation of the services that use the poles or equipment.

(2) In this section, “telecommunications” means any transmission, emission or reception of signs, signals, writings, images, sounds, data, message or intelligence of any nature by wire, radio communications, cable, waves or any electronic, electro-magnetic or optical means, but does not include the transmission, emission or reception of broadcasting that is a radiocommunication in which the transmissions are intended for direct reception by the general public, and “telecommunications company” means a company that provides any service that is provided principally through telecommunications.

(3) The board shall on the application of a public utility or telecommunications company adjudicate upon any dispute arising out of the joint use of any poles, conduits or equipment pursuant to this section or any prior arrangement between the parties, and may make such order after hearing the parties as may be required.

**Exemptions**

35. The Executive Council Member may, by order, on the recommendation of the board, exempt a person from such provisions of this Part as he may specify in the order.

## **PART 3 ENERGY PROJECTS**

**Interpretation**

36. In this Part,

“energy operation certificate” means a certificate issued under this Part authorizing the holder of the certificate to operate a regulated project;

“energy project certificate” means a certificate issued pursuant to this Part to construct a regulated project;

“energy resource” means natural gas, oil and all other forms of petroleum and hydrocarbon, in gaseous or liquid state, and electricity;

“energy project” means

- (a) any plant, smelter, refinery or other undertaking or facility designed to use, convert or process an energy resource or coal,
- (b) a facility for the generation of electricity from the motion of wind or water, or the combustion of natural gas, oil, petroleum products, coal or plant products or geothermal energy, or
- (c) an oil or natural gas transmission pipeline, including all associated structures, machinery, appliances, fixtures and equipment, and storage and handling facilities;

“regulated project” means any energy project that the Commissioner in Executive Council considers to be significant in the matter of any form of energy and, by order, designates as a regulated project.

**Energy project certificate**

37. No person shall construct a regulated project except in accordance with an energy project certificate.

**Energy operation certificate**

38. No person shall operate a regulated project except in accordance with an energy operation certificate.

**Applications for certificates**

39. An application for an energy project certificate or energy operation certificate shall be made to the Executive Council Member and shall contain the prescribed information.

**Review of applications**

40. On receipt of an application, the Executive Council Member shall refer the application to the board for a review.

**Report and recommendations of the board**

41.(1) Upon receipt of an application from the Executive Council Member under section 40, the board may, subject to subsection (2) and section 50, hold a public hearing in accordance with such terms of reference as may be specified by the Executive Council Member, and on conclusion of the review the board shall submit a report and recommendations to the Executive Council Member.

(2) The board may, for the purpose of receiving information or evidence that the board considers is of a confidential character, exclude the public from a hearing under this section while it receives that information or evidence.

**Grant or refusal of applications**

42.(1) On receipt of the report and recommendations of the board, the Executive Council Member, may

- (a) refuse the application, or
- (b) grant the application subject to such terms or conditions he considers to be in the public interest.

(2) The conditions for an energy project certificate under paragraph (1)(b) may include any terms or conditions the Executive Council Member considers necessary to be included in an energy operation certificate for the project.

**Report on energy project**

43.(1) On completion of the construction of a regulated project for which an energy project certificate has been issued, the person to whom the certificate was issued shall submit a report to the Executive Council Member in accordance with the certificate and the regulations.

(2) Upon receipt of a report under subsection (1), and on being satisfied that the conditions of the energy project certificate have been substantially complied with, the Executive Council Member shall issue an energy operation certificate for the regulated project, and may include in the certificate the terms or conditions referred to in subsection 42(2).

**PART 4****ADMINISTRATION AND ENFORCEMENT****COMPLAINTS AND INVESTIGATIONS****Complaints**

44.(1) Any person may file a complaint with the board respecting

- (a) the rates of a public utility,

- (b) a proposed rate change,
- (c) the manner in which a public utility provides service,
- (d) the areas to which a public utility provides service, or
- (e) the conditions imposed by a public utility to establish, construct, maintain or operate an expansion of its service.

(2) A copy of every complaint filed with the board shall be served upon the public utility to which it applies within the time fixed by the rules of the board.

**Action on complaints**

**45.**(1) Subject to section 50, where a complaint is made to the board, the board has the power to determine, generally, whether any action on its part shall or shall not be taken.

- (2) The board may decide not to deal with a complaint where it appears to the board that
- (a) the complaint is one that could or should be more appropriately dealt with under another Act,
  - (b) the subject matter of the complaint is trivial, frivolous or vexatious,
  - (c) the complaint is made in bad faith, or
  - (d) the complaint is not within the jurisdiction of the board.

(3) The board may decide not to deal with a complaint where it is of the opinion that the facts upon which the complaint is based occurred more than six months before the complaint was filed, unless the board is satisfied that the delay was incurred in good faith and no substantial prejudice will result to any person affected by the delay.

(4) Where the board decides not to deal with a complaint, it shall advise the complainant in writing of the decision and the reasons for it.

**Investigation of complaints**

**46.** Subject to section 45, the board shall, without undue delay, investigate every complaint.

**Settlement of complaints**

**47.**(1) Where the board considers it appropriate, the board may endeavour to effect a settlement of a complaint.

(2) Where a settlement of a complaint is agreed to in writing, signed by the public utility and the complainant, and approved by the board, the settlement is binding upon the parties and its terms are enforceable as an order of the board under this Act.

**Investigation without complaint**

**48.** The board may, on its own motion, investigate any matter respecting the provision of service by a public utility.

**Investigation procedure**

**49.**(1) An investigation by the board may be made by a member of the board or its staff who is authorized by the board for the purpose.



- (2) Notice of an investigation shall be given to the public utility under investigation.
- (3) The board or a person authorized under subsection (1) may
- (a) enter upon and inspect at any reasonable time any place, building, works or other property of a public utility,
  - (b) require the attendance of such persons as it or he deems necessary to summon and examine, and take the testimony of such persons,
  - (c) require the production of such books, plans, specifications and other documents as it or he deems necessary, and
  - (d) administer oaths, affirmations or declarations.

## HEARINGS

### Requirement for approval

50. Notwithstanding any other provision of this Act, the board shall not hold any inquiry or public hearing under this Act without the advance written approval of the Executive Council Member for the necessary expenses.

### Powers of the board

51. The board may on its own motion inquire into, hear and determine any matter or thing respecting the production, transmission, delivery or furnishing of electricity or gas to the public.

### Hearing procedure and jurisdiction

52. Subject to the other provisions of this Act and the regulations and to the need to abide by the fundamental principles of justice, the board in respect to any inquiry or hearing

- (a) has the exclusive jurisdiction and authority to determine any question of fact, law, or mixed fact and law required to be decided,
- (b) may receive such evidence or other information as it considers appropriate, whether or not such evidence is given under oath or affirmation, and whether or not it would be admissible in a court of law,
- (c) has the powers, privileges and immunities of a board of inquiry under the Public Inquiries Act,
- (d) may determine the persons to whom notice of the proceedings shall be given, and
- (e) may determine its own procedures.

### Evidence

53.(1) Where the board exercises its power to issue a summons requiring the production in evidence of documents or things it may, upon the production of the documents or things before it, adjourn the proceedings to permit the parties to examine the documents or things.

(2) Oral evidence or submissions need not be recorded in written form, but the board shall cause electronic sound recordings to be made of all statements made orally at its public hearings, and shall make such recordings as well as all relevant documents available on reasonable conditions for inspection or copying by any person who so requests, and by any court exercising jurisdiction over the board.

**Disqualification of board members**

54.(1) A member is not disqualified from participating in a public hearing or any other proceeding respecting a complaint because he has previously taken part in any investigation or consideration of the subject matter of the complaint before the hearing unless he has communicated directly or indirectly with any party or his representative without notice to and opportunity for all parties to participate before any final decision.

(2) Notwithstanding subsection (1), the board or a member may seek legal advice from an advisor independent of the parties, but in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

**Combination of proceedings**

55. The board may combine two or more complaints or other matters under this Act and deal with them in the same proceeding where

- (a) they relate to the same public utility, or
- (b) they have questions of law or fact in common.

**Costs**

56. The board may order to whom or by whom any costs incidental to any proceeding before the board are to be paid, and may fix the costs to be paid.

**ORDERS**

**Powers of the board**

57. The board may make any order authorized under this Part on its own motion, or upon the complaint or application of an interested person.

**Types of orders**

58.(1) The board may order any person to do anything that such person is or may be required to do under this Act, and may forbid the doing of anything that is contrary to this Act.

(2) An order issued under subsection (1) may prescribe the time and the manner in which the order is to be carried out.

**Extension of time for compliance**

59. Where the circumstances of the case so require the board may, upon such notice to persons affected as it deems reasonable, or in its discretion without notice, extend the time specified in any board order or decision for compliance with the order or decision.

**Requirement for a hearing**

60.(1) Except in cases of urgency, of which the board shall be the sole judge, the board shall not without a hearing make any order involving an outlay by, or a loss or deprivation to, a public utility.

(2) Where an order under subsection (1) is made without a hearing, the board, on the application of an interested person, shall as soon as practicable hear and reconsider the matter and make such further or other order as it considers advisable.

(3) Where any order is made by the board without a hearing, any person affected by the order may, within ten days of the making of the order or within such further time as the board may allow, apply to the board to amend or rescind the order.

#### **Effect of order upon service**

**61.(1)** Every order and decision of the board is final and binding until changed or amended by the board, but no order of the board shall be effective until a copy of it is served upon the person to whom it is directed.

(2) Where in any case it is made to appear to the satisfaction of the board that service of any document cannot be made by personal service on a person or, in the case of a corporation, at its head office or chief place of business in the Yukon, the board may allow substituted service by publication in a local newspaper or by prepaid registered or certified mail.

#### **Variation of orders**

**62.** The board may review, change or cancel any decision or order made by it, and may re-hear any application or complaint before deciding it.

#### **Interim and reserved orders**

**63.** The board may, in any matter before it,

- (a) make such interim orders on appropriate terms as it may deem necessary to facilitate its inquiry or to prevent serious harm occurring prior to its decision, and
- (b) reserve further direction either for an adjourned hearing or for further application.

## **ENFORCEMENT**

#### **Powers of the board and staff**

**64.(1)** The board may take any steps necessary for the enforcement of any order made by it.

(2) Subject to the Public Service Commission Act, the Executive Council Member may, upon the request of the board, appoint persons to enforce orders of the board.

#### **Appointment of administrator for a public utility**

**65.(1)** Where the board considers it necessary for the enforcement of an order, the board may, with the approval of the Executive Council Member, authorize a person appointed under section 64 to act as administrator of the affairs of a public utility.

(2) An administrator may enter on and take possession of the property, books and offices of a public utility and, until the order has been enforced, may

- (a) assume and take over the management of the public utility for and in the interests of the shareholders and the public, and
- (b) assume all the powers of the directors and officers of the public utility, including the power to employ and dismiss officers and servants of the public utility.

(3) Where an administrator takes possession of a public utility, every officer and employee shall obey the orders of the board or the administrator in the management of the public utility.

(4) The board and the administrator may, on taking possession of a public utility, determine, receive and pay out all money due or owing by the public utility, and give cheques and receipts for money, to the same extent as the proper officers.

(5) The costs and expenses of proceedings under this section are in the discretion of the board.

**Enforcement in the Supreme Court**

66. An order of the board becomes an order of the Supreme Court immediately upon filing with the clerk of the court of a certified copy of the order, and the order may then be enforced in like manner as any order of the Supreme Court.

**Evidence of board orders and decisions**

67. In any action or proceeding, a copy of any order or decision of the board purporting to be certified by a member or the secretary to be a true copy is prima facie evidence without proof of the signature or the appointment of the secretary or member.

**Offence and penalty**

68.(1) A person who fails to comply with any of the provisions of this Act commits an offence and is liable on summary conviction,

- (a) in the case of an individual, to a fine not exceeding \$1,000, and in default thereof to imprisonment for a term not exceeding one year, and
- (b) in the case of a corporation, to a fine not exceeding \$5,000.

(2) Any person who advises, solicits or persuades, or knowingly instructs, directs or orders any officer, agent or employee of a public utility to perform, commit or do any act that is contrary to an order of the board or to the requirements of this Act, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one year, or both.

**APPEALS**

**Leave to appeal to the Court of Appeal**

69.(1) On application to the Court of Appeal within 30 days of a decision or order of the board or within a further time allowed by the Court of Appeal in special circumstances, the Court of Appeal may grant leave to appeal to that court from the order or decision on a question of law or excess of jurisdiction.

(2) The granting of leave to appeal and the costs of the application are in the discretion of the Court of Appeal.

(3) The applicant shall give notice of the application stating the grounds of appeal to the board, to the Executive Council Member, and to any party adverse in interest, at least three clear days before the hearing of the application.

**Appeal procedure and costs**

70.(1) Where leave is granted, the appellant shall, within 15 days, give notice of appeal to the board, to the Executive Council Member and to any party adverse in interest.

(2) The board and the Executive Council Member may be heard by counsel on the appeal.

(3) Neither the board nor an officer, employee or agent of the board is liable for costs in respect of an application or appeal under this section.

**Effect of order or decision under appeal**

71. An appeal to the Court of Appeal shall not of itself stay or suspend the operation of the decision or order appealed from, but either the Court of Appeal or the board has the power to suspend the operation of the decision or order upon such terms as may be fixed by the court or the board, as the case may be.

**Jurisdiction of the Court of Appeal**

72.(1) The Court of Appeal has the same jurisdiction and powers on appeals as it has for appeals from orders of the Supreme Court.

(2) Except as otherwise provided in this Act, appeals shall conform as far as possible with the rules governing appeals from the Supreme Court.

**References to the Court of Appeal**

73. The board may at any stage of its proceedings refer any question of law, jurisdiction, practice or procedure to the Court of Appeal for hearing and determination.

**Hearing and determination of appeals**

74. An application, appeal or reference to the Court of Appeal under this Act shall be heard and determined without delay in a summary way.

**MISCELLANEOUS****Expenditure of public money**

75. No provision of this Act authorizes or requires the expenditure of public money except with the approval of the Executive Council Member.

**Regulations**

76. The Commissioner in Executive Council may make such regulations as he considers necessary for carrying the purposes and provisions of this Act into effect.

**Existing franchises**

77.(1) The Northern Canada Power Commission is deemed to have been granted a franchise by the Commissioner in Executive Council pursuant to this Act subject to such terms and conditions as have been imposed on or accepted by the Northern Canada Power Commission pursuant to the Electrical Public Utilities Act immediately before the coming into force of this Act.

(2) The Yukon Electrical Company Limited is deemed to have been granted a franchise by the Commissioner in Executive Council pursuant to this Act subject to such terms and conditions as have been imposed on or accepted by the Yukon Electrical Company Limited pursuant to the Electrical Public Utilities Act immediately before the coming into force of this Act.

(3) The Yukon Hydro Company Limited is deemed to have been granted a franchise by the Commissioner in Executive Council pursuant to this Act subject to such terms and conditions as have been imposed on or accepted by the Yukon Hydro Company Limited pursuant to the Electrical Public Utilities Act immediately before the coming into force of this Act.

(4) Nothing in this section limits the power of the Commissioner in Executive Council to revoke or vary the terms or conditions of any franchise granted or deemed to have been granted under this or any other Act.

## **PART 5**

### **PUBLIC UTILITY COMPANIES**

#### **Application of this Part**

78. This Part applies to all applications for incorporation of companies intended to operate or control any public or municipal franchise, undertaking or utility, including water, gas, electric and telephone companies, or that may require for its purposes the erection of any permanent structure in or upon any highway, stream or adjoining navigable waters, and to such companies when incorporated.

#### **Incorporation requirements**

79. With the application for incorporation the applicants shall file with the registrar and produce to the Executive Council Member

- (a) evidence that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking,
- (b) a detailed description of the plant, works and intended operations of the company, and an estimate of their cost,
- (c) a bylaw of every municipality in which the operations of the company are to be carried on authorizing the execution thereof in the manner set out in the detailed description above referred to,
- (d) if the undertaking is to be carried on in an unorganized district a letter from the Executive Council Member approving of the undertaking, and
- (e) if it is proposed that the company shall acquire any plant, works, land, undertaking, good will, contract or other property or assets, a detailed statement of the nature and value thereof.

**Reference to engineers or other experts**

**80.**(1) The Executive Council Member may refer the application and all statements, evidence and material filed thereon to engineers, architects, valuers or other experts for consideration, investigation and report regarding the public necessity for the undertaking of the company, the amount of capital required therefor, the value of any plant, works, lands, undertaking, good will, contract or other property or assets to be acquired by the company and any other matter that may appear to be in the public interest regarding the undertaking.

(2) For the purposes of this Part, “registrar” means the registrar as defined in the Business Corporations Act.

**Incorporation of public utility companies**

**81.** The incorporation of any company hereafter formed for the purpose of operating any public utility under this Part, either solely or in conjunction with other objects, shall be by articles of incorporation under Part 2 of the Business Corporations Act.

**Existing companies**

**82.** The provisions of this Part continue to apply to any company formed by letters patent or by memorandum of association under Part II of the Companies Act.

**Power to pass bylaws**

**83.** The company may pass bylaws regarding the control and management of its undertakings, its dealings with the public it is incorporated to serve and the fixing and collection of tolls, charges, rates or levies for the public service given by the company, except that no such bylaws shall have any force or effect or be acted upon until approved by the Executive Council Member and, in the case of bylaws affecting its dealings with the public, the fixing and collection of tolls, charges, rates or levies for the public service given by the company, published twice in a public newspaper at the place where the undertaking of the company is carried on or as near thereto as may be and in the Yukon Gazette.

**Annual report**

**84.** In addition to other returns that may be required by this or any other Act, the company shall on or before March 1 in each year make a report to the registrar under oath of the president and secretary, which shall specify,

- (a) the cost of work, plant and undertaking of the company,
- (b) the amount of its capital, and the amount paid thereon,
- (c) the amount received during the year from tolls, levies, rates and charges and all other sources, stating each separately,
- (d) the amount and rate of dividends paid,
- (e) the amount expended for repairs, and
- (f) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the current year, together with an estimate of the cost thereof.

**Books open to inspection**

**85.** The books of account of the company shall be at all reasonable times open to the inspection and examination of any shareholder.

**Appointment of inspector**

**86.** The Executive Council Member, if he has any doubts as to the correctness or truth of any statements furnished by the company, may appoint a person to inspect and examine such books, and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all other officers and servants thereof, all such information as to such books and the affairs of the company generally, as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of affairs of the company, so as to enable him to ascertain the correctness of statements furnished by the company.

**Power to construct and operate works**

**87.(1)** A company incorporated for any of the purposes to which this Part applies has, respectively, full power to construct, maintain, complete and operate works and apparatus for the production, sale and distribution of gas, water, electricity or other products for the purpose of light, heat or power or of operating a system of telephones, or for such other purpose as the company may be incorporated for, as the case may be, and may construct and operate the same by any means through, under, along or over streets, highways and public places.

(2) The powers of a company under subsection (1) are subject to such agreement in respect thereof as shall be made between the company and the municipal corporation within whose jurisdiction the same are situate, ratified by a bylaw of the council of such municipality, and such municipality may, by agreement ratified as aforesaid, contract with any such company for the purchase of water, gas or electricity and for the purchase or renting of any apparatus connected with the production, sale or distribution thereof for any number of years not in the first instance exceeding ten years, and renew any such contract from time to time for such period not exceeding ten years as such council desires.

(3) In the case of streets, highways and public places not within the limits of any municipality, the right of any such gas, water, electric or telephone company to make use of such streets, highways or public places to the extent indicated in this Part shall be subject to such terms as may be imposed by the Executive Council Member upon application first made by such company.

**Meters and fittings**

**88.** Every such company may sell and dispose of gas meters and gas, water and electric fittings of every description for the use of private and public houses or for any establishment, company or corporation whatsoever, as well as coke, coal, tar and all the products of their works, refuse or residuum arising to be obtained from the materials used or necessary for the manufacture of gas or electricity, and every company may let out to hire gas meters and gas, water and electric fittings of every kind and description at such rate and rents as may be agreed upon between the consumers and tenants and such company.

**Laying mains and wires on streets**

**89.** Any such company may break up, dig and trench and use so much and so many of the streets, squares, highways, lanes and public places of the locality for supplying which with gas, water, electricity or other product or service or either of them the company has been incorporated as are necessary for laying the mains and pipes to conduct the gas or water or for placing



the wires and connections to conduct the electricity or other product and to supply such services from the works of and by the company to and for the consumers or users thereof, doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places while the works are in progress.

#### **Company's rights regarding mains and pipes**

**90.(1)** When any such company has laid down mains, pipes, wires or conductors for the supply of gas, water or electricity through any of the streets, squares or public places of any locality, no other person or body politic or corporate shall, without the prior consent of such company nor otherwise than on payment to such company of such compensation as may be agreed upon, or in default of agreement being arrived at, settled by arbitration, lay down any pipe, wire or conductor for the supply of gas, water or electricity within six feet of such company's main pipes, wires or conductors or if it be impracticable to cut drains for such other main pipes, wires or conductors at a greater distance then as nearly six feet as the circumstances of the case will admit.

(2) This section applies to mains, pipes, wires or conductors crossing as well as running or parallel with other mains, pipes, wires or conductors.

#### **Parts of buildings having different owners or tenants**

**91.** When there are buildings within the locality the different parts whereof belong to different proprietors or are in possession of different tenants or lessees, the company may carry pipes, wires or conductors to any part of any building so situate passing over the property of one or more proprietors or in the possession of one or more tenants to convey the gas, water or electricity to the property of another or in the possession of another, and such pipes, wires or conductors shall be carried up and attached to the outside of the building.

#### **Breaking up of passages**

**92.** The company may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes, wires or conductors or taking up or repairing the same, doing as little damage as may be in the execution of the powers granted by this Part.

#### **Compensation**

**93.(1)** Every company shall make satisfaction to the owners or proprietors of buildings or other property or to the public for all damages by them sustained in or by the execution of all or any of the said powers, subject to which provisions this Part shall be sufficient to indemnify every such company and their servants, and those by them employed for what they or any of them do in pursuance of the powers hereby granted.

(2) Every person claiming compensation from the company under this section shall proceed by originating summons.

#### **Public safety**

**94.** Every such company shall construct, locate and operate its gas works, water works or electric or telephone system and all apparatus and appurtenances thereto belonging or appertaining or therewith connected and wheresoever situated so as not to endanger the public health or safety.

**Limitation of powers of company**

95. Nothing in this Part authorizes any such company or any person acting under the authority of the same to take, use or injure for the purposes of the company any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house, or nursery ground for trees, or to convey from the premises of any person any water already appropriated and necessary for his domestic uses without the prior consent in writing of the owner.

**Privileges of other companies**

96. Nothing in this Part authorizes any company established under it to interfere with or infringe upon any exclusive privilege granted to any other company.

**Individual rights**

97. Nothing in this Part prevents any person from constructing any works for the supply of gas, water, electricity or telephones to his own premises, but any person supplying electricity, water or telephone to any other premises than his own shall be subject to the provisions of this Part and shall pay the licence or fee at any time imposed on any other company or person supplying similar utilities in the same city, town or district.

**Exemption from distress and seizure**

98. Neither the service nor the connecting pipes, wires or conductors of the company, nor any meters, lustres, lamps, pipes, gas fittings, electric fittings or any other property of any kind whatsoever of the company shall be subject to or liable for rent nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be, nor be in any way whatsoever liable to any person for the debt of any person to and for whose use or the use of whose house or building the same may be supplied by the company notwithstanding the actual or apparent possession thereof by such person.

**Nonpayment of rates, etc.**

99. Where any person supplied by the company with gas, water, electricity or other product, telephone or other service neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof, the company or anyone acting under its authority on giving 48 hours previous notice to the person supplied may stop the supply of gas, water, electricity or other product from entering or being supplied, may cut off such telephone or other service to the premises of and to the person in arrears by cutting off the service pipe or pipes, wires or conductors or by such other means as the company or its officers see fit, and may recover the rent or charge due up to such time together with the expense of cutting off the gas, water, electricity or other product or service as the case may be, in any competent court notwithstanding any contract to furnish for a longer time.

**Entry of premises by employees of company**

100.(1) In all cases where the company may lawfully cut off and take away the supply of gas, water, electricity or other product or service from any house, building or premises the company, their agents or their workers upon giving 48 hours previous notice to the person in charge or the occupier may enter into the house, building or premises between the hours of nine o'clock in the forenoon and five o'clock in the afternoon, making as little disturbance and inconvenience as possible, and may remove and take away any pipe, meter, cock, branch, lamp, fitting, telephone or other apparatus the property of and belonging to the company.

(2) Any servant duly authorized by the company may between the hours referred to in subsection (1) enter any house into which gas, water, electricity or other product or service have been taken or supplied for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe, apparatus or fitting belonging to the company or used for their gas, water, electricity or other product or service.

(3) Where any person does not permit the servants and officers of the company to enter and perform the acts referred to in subsection (1) or (2), the person so refusing or obstructing shall incur a penalty to the company, for every such offence, of \$20, and a further penalty of \$4 for every day during which such refusal or obstruction continues.

### **Discontinuance of service**

**101.** Where any customer discontinues the use of the gas, or other means of lighting or heating, or water, electricity or power or other product or service furnished or supplied by a company subject to the provisions of this Part, or the company lawfully refuses to continue any longer to supply the same, the officers and servants of the company may at all reasonable times enter the premises in or upon which such customer was supplied with gas, or other means of lighting or heating, water, electricity, power or other product or service for the purpose of removing therefrom any fittings, machine, apparatus, meters, pipes, wires, conductors, telephones or other things, being the property of the company, in or upon such premises and may remove the same therefrom, doing no unnecessary damage.

### **Expropriation**

**102.**(1) Where it is deemed proper to conduct any of the pipes, wires or conductors or to carry any of the works of the company through the lands of any person lying within or without ten miles of the locality for supplying which the company is incorporated and the consent of such person cannot be obtained for that purpose, the company may take or use the land required and nominate and appoint a disinterested person and the owner or owners of the land taken or damaged may nominate and appoint a third person and the said three persons shall act as arbitrators in the matter between the company and the owner or owners of the property.

(2) Nothing in this section authorizes the company to take or use any house, land or property in contravention of section 94.

### **Powers and duties of arbitrators**

**103.** The arbitrators shall examine all witnesses and administer all necessary oaths or declarations to them, and the arbitrators or a majority of them shall award, determine and adjudge what sum or sums of money respectively shall be paid to the owner or owners of the property so taken or damaged by the company.

### **Payment of award**

**104.** The sum or sums of money so awarded shall be paid within three months after the date of the award and in default of such payment the owner or owners may resume the possession of the property with all the rights appertaining thereto, but the company shall be held liable to such owner for any damage it may have done to the property.

**Failure to appoint arbitrator**

**105.** In the event of the company or the owner of such property failing to appoint an arbitrator after eight days notice from one of the parties to the other or of the two arbitrators failing to appoint a third, a judge of the Supreme Court may appoint a third arbitrator and the decision of the three arbitrators or a majority of them shall be binding on all parties concerned.

**Duty of company to supply utility service**

**106.** All companies having the privileges conferred by this Part shall supply the utility controlled by them to all persons within the area covered by the privilege except in such cases where the company may lawfully refuse to supply such utility.

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# CHAPTER 144

## RAVEN ACT

### **Official bird**

1. The bird popularly known as the northern raven and known biologically as the common raven (*Corvus corax*, sub-species *principalis*) is adopted as the official bird of the Yukon.

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# CHAPTER 145

## REAL ESTATE AGENTS ACT

### Interpretation

1.(1) In this Act,

- “agent” means a real estate agent and includes a person who holds himself out as a real estate agent and any person who, for another or others, for compensation, gain or reward, or hope or promise thereof, trades in real estate either alone or through one or more officials or salespersons;
- “business” means an undertaking carried on for the purpose of gain or profit and includes any interest in such an undertaking;
- “continuous use” means the right to possession for a period of time which is greater than seven consecutive days but less than 12 consecutive months;
- “gratuitous property manager” means a person who has no interest in the real estate and who, without fee or reward or expectation of fee or reward, takes care of or deals with occupants or potential occupants of the real estate on behalf of a person who does have an interest in that real estate, and includes a person who, without carrying on the business of doing any of those things, does some or all of those things for a fee or reward under an arrangement made only occasionally;
- “licence” means licence under this Act;
- “licensed person” means a person who is the holder of a licence issued by the superintendent under this Act and includes a representative designated under section 6;
- “official” means president, vice-president, secretary, treasurer, managing director, general manager, department manager, branch office manager and each person acting in a similar capacity whether so designated or not;
- “person” includes a partnership, association or corporation;
- “property user’s licence” means a licence permitting the residential use of furnished real property under which the licensee may have residential use of that property or any substituted property, for two or more periods of continuous use, at least one period of which commences in a year subsequent to the year in which the first period of continuous use commences; and requiring the licensee to pay during or prior to the year in which any period of continuous use commences a consideration for the residential use of that property or any substituted property for any period of continuous use commencing in any subsequent year;
- “real estate” means any real property, leasehold property, property user’s licence or time sharing agreement, and includes any business, whether with or without premises, and the fixtures, stock in trade, goods or chattels in connection with the operation of the business;
- “salesperson” means a real estate salesperson, and includes a person employed, appointed or authorized by a real estate agent to trade in real estate;
- “superintendent” means the superintendent of real estate agents and includes the deputy superintendent of real estate agents;
- “time sharing agreement” has the same meaning as “property user’s licence”

“trade” means a transaction in a real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and includes any offer or attempt to list real estate for the purpose of such transaction and any act, advertisement, conduct or negotiation directly or indirectly in furtherance of such a transaction, offer or attempt.

(2) For the purpose of this Act, a property user’s licence or time sharing agreement is deemed to be located where the furnished real property in respect of which the licence is granted is located.

**Application of the Act**

2. This Act, except sections 37 to 49 does not apply to

- (a) any assignee, custodian, liquidator, receiver, trustee or other person acting as directed by the provisions of a statute or under the order of a court, or to an administrator of an estate or any executor or trustee selling under the terms of a will, marriage settlement or deed of trust,
- (b) any trust or insurance company, any bank trading in real estate owned and administered by it,
- (c) a person
  - (i) who acquires real estate or any interest therein,
  - (ii) who disposes of real estate owned by him or in which he has a substantial interest, or
  - (iii) who is an official or employee of a person engaged in so acquiring or disposing of real estate,
- (d) any lawyer and any person employed by him where the trade is made in the course of and as part of a lawyer’s trade, or
- (e) a trade in real estate made by a gratuitous property manager as an incidental part of the management of the property he undertook to manage.

**Trading in real estate**

3.(1) No person shall

- (a) trade in real estate unless he is licensed as an agent or as a salesperson of a licensed agent, or
- (b) act as an official of or on behalf of an agent that is a partnership or corporation in connection with a trade in real estate by that agent, unless he is licensed as a salesperson of that agent or that agent has designated him as its representative under section 6.

(2) A change in the membership of a partnership shall be deemed to create a new partnership and to extinguish an existing licence.

(3) No person who is not the holder of a subsisting licence under this Act shall act or directly or indirectly hold himself out as an agent or salesperson in the Yukon.

**Licensing of salespersons**

4.(1) A salesperson may only be licensed where he is the salesperson of a licensed agent.

(2) Each application for a licence of a salesperson shall have attached thereto in a form approved by the superintendent,

- (a) a recommendation of the applicant, made by or on behalf of a licensed agent, and



- (b) a declaration that the applicant, if granted a licence, is to act as a salesperson employed by and representing the agent making the declaration or on whose behalf the declaration is made.

(3) The licence shall be inscribed with the name of the agent as principal of the licensee.

(4) Upon a salesperson ceasing to be employed with a licensed agent the licence of the salesperson is cancelled.

### **Eligibility for licence**

5. An agent is not eligible to be licensed or to hold a licence unless he maintains an office for the conduct of his business in the Yukon.

### **Application by corporation**

6.(1) A partnership or corporation

- (a) may apply for and obtain a licence in the name of the firm, partnership or corporation, and
- (b) shall designate one individual who shall act as its or their representative.

(2) An individual shall not be designated as the representative of an agent that is a partnership or corporation unless he meets the qualifications required of an agent under this Act.

(3) Any associate, partner or employee of an agent, and any officer, member or employee of a partnership or corporation licensed as an agent may apply for and obtain a licence authorizing the holder thereof to act as a salesperson.

### **Application for and cancellation or suspension of licence**

7.(1) Where a person wishes to be licensed under this Act he shall make application to the superintendent for a licence in the prescribed form.

(2) The superintendent may issue a licence to an applicant

- (a) upon an application being made under subsection (1), and
- (b) after satisfying himself that the applicant's character and financial position qualify him as being suitable to be licensed.

(3) A person is not eligible to be licensed unless

- (a) in the case of an individual, that person
  - (i) has attained the age of 19 years,
  - (ii) has such qualifications as may be prescribed, and
  - (iii) has a permanent residence in the Yukon and has been a resident for a period of not less than 3 months prior to the application, and
- (b) in the case of a partnership or corporation, that partnership or corporation, at the time of its application for a licence, is registered in the Yukon pursuant to the laws of the Yukon and maintains an office for the conduct of its business in the Yukon.

- (4) The superintendent may cancel or suspend a licence of a licensed person where
- (a) that licensed person contravenes or fails to comply with any provisions of this Act or the regulations,
  - (b) in the case of a licensed agent, the funds in the trust account of that agent are less than the amount that he is accountable for,
  - (c) in the case of a licensed agent, that agent has misappropriated funds that he holds in trust,
  - (d) that licensed person induces or attempts to induce a party to a contract concerning a trade in real estate to breach that contract,
  - (e) in the case of a licensed agent, that agent fails to maintain at his business office proper records,
  - (f) in the case of a licensed agent, that agent fails to make his records available for inspection, or
  - (g) for cause it is considered to be in the public interest to do so,

(5) A licence expires on March 31 following the date on which it is issued unless the licence has previously terminated or has been previously cancelled.

(6) Where a licensed person

- (a) makes application for a licence for the succeeding year before his existing licence expires, and
- (b) the application is accompanied by the prescribed documents and fees,

the existing licence remains in force, notwithstanding subsection (5), until the new licence is issued or until the superintendent notifies the licensed person that he will not be issued a new licence.

(7) Where a person's licence has been cancelled under subsection (4) and that person applies for a new licence, that person is not eligible to be issued a new licence until 12 months have elapsed from the date of the cancellation.

(8) The superintendent shall immediately notify the applicant or licensed person, in writing, of his reasons for refusing to issue a licence or for suspending or cancelling an existing licence.

### **Appeal**

8.(1) A person

- (a) who has been refused a licence under section 7, or
- (b) whose licence has been cancelled or suspended under section 7

may appeal the refusal, cancellation or suspension, as the case may be, to the Executive Council Member.

(2) A person who wishes to appeal the decision of the superintendent under this section shall, within 30 days of the date that person was served with the notification that he was refused a licence or that his licence was cancelled or suspended, serve the Executive Council Member with a notice of appeal.

(3) Upon being served with a notice of appeal under subsection (2), the Commissioner in Executive Council shall, within 30 days of being served with the notice of appeal, appoint an appeal board to hear the appeal.

(4) Where an appeal board is appointed under subsection (3), the Commissioner in Executive Council may, from time to time, prescribe the time within which the appeal board shall hear the appeal and render a decision.

(5) Upon hearing an appeal under this section, the appeal board may confirm the decision of the superintendent, order that the licence be issued, remove or vary the suspension or reinstate the cancelled licence.

(6) An appeal board appointed under this section shall consist of

- (a) a chairperson who shall not be the superintendent or his representative or a person licensed under this Act, and
- (b) two other persons, one of whom shall be chosen from amongst a list of at least four names submitted by the Yukon Real Estate Association.

### **Documents to accompany application for licence**

9.(1) Where a person makes application for a licence under section 7, he shall provide the superintendent with

- (a) a complete application in the prescribed form,
- (b) in the case of a person applying to be licensed as an agent, the bond prescribed for that class of licence except where that person has previously filed with the superintendent a bond which remains in full force and effect,
- (c) the prescribed fee, and
- (d) the address of the office in the Yukon out of which he will conduct his business of trading in real estate.

(2) The superintendent may from time to time require

- (a) that further information be submitted by an applicant or a licensed person within a time specified by the superintendent, and
- (b) verification by affidavit or otherwise of any information then or previously submitted.

### **Service of notice**

10. A document or other notice under this Act may be served on a licensed person by leaving it at or by sending it by registered or certified mail to the address provided by the licensed person pursuant to section 9 or section 11.

### **Notice of changes**

11.(1) A licensed agent shall immediately notify the superintendent in writing of

- (a) a change in the address of his business office,
- (b) the commencement of employment of each salesperson employed by him,
- (c) the termination of employment by him,
- (d) a change in the chartered bank or trust company in which that agent maintains a trust account,
- (e) a change in the partners where that agent is a partnership,
- (f) a change in the officers or directors of a corporation where that agent is a corporation, and
- (g) a change of the designated representative where that agent is a partnership or corporation.

(2) A licensee who ceases to carry on the business of a real estate agent shall immediately notify the superintendent in writing and shall return his licence with the notice.

**Forfeiture of bond**

12.(1) Where an agent who is a principal under a bond mentioned in section 9 has a judgment obtained against him, his designated representative or a salesperson employed by him which

- (a) is based on a finding of fraud or breach of trust in respect of a trade in real estate,
- (b) has become final by reason of lapse of time or of being confirmed by the highest court to which that judgment may be appealed, and
- (c) is not satisfied within 30 days of the date that it becomes final,

the bond is forfeited upon the superintendent notifying the surety in writing that the judgment remains unsatisfied 30 days after the date that it becomes final.

(2) Where a bond is forfeited under subsection (1), the surety shall pay to the Executive Council Member

- (a) the amount of the judgment in respect of which the bond was forfeited within 60 days of the date that the bond was forfeited, and
- (b) the amount of any other judgment obtained against that agent who was the principal under that bond, his designated representative or a salesperson employed by him which
  - (i) is based on a finding of fraud or breach of trust in respect of a trade in real estate,
  - (ii) has, within two years of the date the bond was forfeited, become final by reason of lapse of time or of being confirmed by the highest court to which the judgment may be appealed, and
  - (iii) remains unsatisfied 30 days after the judgment became final,

within 60 days of being notified in writing by the superintendent that the judgment has become final.

(3) Where the Executive Council Member receives money under subsection (2), he shall pay that money into the Supreme Court in trust for those persons who obtained judgments referred to in subsection (2) and upon receiving all the money payable under subsection (2) the Supreme Court shall, after two years have expired from the date the bond was forfeited, pay out that money to those persons who obtained those judgments.

(4) Where

- (a) the total amount paid to the Executive Council Member by the surety under subsection (2) is less than the face value of the bond forfeited under subsection (1),
- (b) within two years of the date that the bond was forfeited, an action is commenced against that agent, who was the principal under that bond, his designated representative or a salesperson employed by him alleging fraud or breach of trust in respect of a trade in real estate, and
- (c) judgment is obtained in that action against that agent, his designated representative or a salesperson employed by him which
  - (i) is based on a finding of fraud or breach of trust in respect of a trade in real estate,

- (ii) has become final by reason of lapse of time or of being confirmed by the highest court to which the judgment may be appealed, and
- (iii) remains unsatisfied 30 days after the judgment became final,

a surety pay to the Executive Council Member the amount of the judgment within 60 days of being notified in writing by the superintendent that the judgment has become final.

(5) Where the Executive Council Member receives money under subsection (4), he shall pay that money into the Supreme Court in trust for those persons who obtained judgments referred to in subsection (4) and upon receiving all the money payable under subsection (4) the Supreme Court shall after determining to its satisfaction that those actions referred to in subsection (4) that were commenced have been concluded, pay out that money to those persons who obtained judgments.

(6) Where the amount of money paid into court under subsection (3) is insufficient to satisfy the judgments referred to in subsection (2), the Supreme Court shall pay out the money on a pro rata basis.

(7) Where the amount of money paid into court under subsection (5) is insufficient to satisfy the judgments referred to in subsection (4), the Supreme Court shall pay out the money on a pro rata basis.

(8) Notwithstanding any other provisions of this Act the total liability of a surety under a bond shall not exceed the face value of that bond.

#### **Termination of licence upon forfeiture or termination of bond**

**13.** A licence issued to an agent under this Act terminates upon the bond provided by that agent to the superintendent under this Act being

- (a) forfeited, or
- (b) terminated unless prior to that bond being terminated that agent provides the superintendent with a bond to replace the bond being terminated.

#### **Investigation**

**14.(1)** The superintendent, an inspector, or any person authorized by the superintendent may, on complaint of a person interested,

- (a) investigate and inquire into
  - (i) any matter concerning the due administration of this Act, or
  - (ii) the circumstances surrounding a transaction or matter or thing done by an agent or salesperson whether licensed or not licensed,
- (b) for the purpose of such an investigation, inquire into and examine the business affairs of the person in respect of whom the investigation is being made, and
- (c) examine and inquire into
  - (i) books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of, in relation to or connected with the person in respect of whom the investigation is being made, and
  - (ii) property, assets or things owned, acquired or alienated in whole or in part by such person or by a person acting on behalf of or as agent for such person.

(2) A person in respect of whom the investigation is made shall make prompt and explicit answers to such inquiries.

**Production of documents**

15.(1) The superintendent or a person authorized by him may at reasonable times demand the production of and inspect

- (a) all or any of the books mentioned in section 14, and
- (b) all or any documents relating to a trade in real estate effected by any agent or salesperson.

(2) A person who has the custody, possession or control of the books or documents referred to in subsection (1) shall produce and permit the inspection of them by the superintendent or person authorized by him.

(3) A person who contravenes subsection (2) by refusal or neglect to produce or permit the inspection of books or documents is guilty of an offence.

(4) Where an investigation is being carried on under section 14, the superintendent or the person making the investigation may seize and take possession of documents, books, papers, correspondence, communications or records of the person the business affairs of whom are being investigated.

**Suspension of licence**

16. Where a licensed agent is being investigated under section 14 and the superintendent is of the opinion that the agent may have misappropriated funds which that agent holds in trust, the superintendent may by order suspend the licence of that agent.

**Security**

17. Where a licence of an agent expires or has been cancelled or suspended the superintendent may order the chartered bank or trust company

- (a) with which the person being investigated maintains a trust account, or
- (b) with which are deposited any funds or securities considered by the superintendent or the person making the investigation to have been deposited in connection with any trade in real estate in respect of which the investigation is being made,

to hold the funds or securities, as the case may be, until the superintendent in writing either revokes the order or consents to release any particular fund or security or portion of a fund or security from the order.

**Appeal**

18.(1) Any person aggrieved by an order of the superintendent made pursuant to section 16 or 17 may, within 30 days thereof, appeal to the Supreme Court by way of originating notice.

(2) The Supreme Court may confirm or revoke the order of the superintendent or make such other order as it considers proper.

**Appointment of receiver or manager****19. Where**

- (a) pursuant to section 14, an investigation is about to commence, is taking place or has been completed,
- (b) the superintendent has made an order under section 16 or 17, or
- (c) criminal proceedings or proceedings in respect of a contravention of this Act have been instituted against a licensed person that, in the opinion of the superintendent, are related to trust funds or the use of trust funds,

the superintendent may apply to the Supreme Court by way of originating notice for the appointment of a receiver or a receiver and manager or a trustee to hold or manage, as the case may be, all or part of the property of the licensed person.

**General powers of superintendent**

**20.** In addition to the powers contained in sections 14 and 15, the superintendent, inspector or other person conducting an investigation under section 14 has all the powers of a board appointed under the Public Inquiries Act.

**Books and accounts of agents**

**21.(1)** An agent shall keep proper books and accounts of his trades in real estate, and enter in his books and accounts in respect of each trade

- (a) the nature of the trade,
- (b) a description of the real estate involved sufficient to identify it,
- (c) the true consideration for the trade,
- (d) the names of the parties to the trade,
- (e) the amount of deposit received and a record of the disbursement thereof, and
- (f) the amount of his commission or other remuneration and the name of the party paying it.

**(2) Every agent shall**

- (a) keep a trust ledger in which he shall maintain a separate record for each person on whose behalf he is acting of all
  - (i) money that he receives in trust,
  - (ii) money that he holds in trust, and
  - (iii) disbursements he makes from money he receives or holds in trust,
 in respect of a trade in real estate for that person,
- (b) forthwith deposit all money he receives in trust in respect of a trade in real estate into an account
  - (i) maintained in a chartered bank or trust company, and
  - (ii) which is kept in the name of the agent and designated as a trust,
- (c) keep money he receives or holds in trust in respect of a trade in real estate separate from money which belongs to the agent,
- (d) only disburse money he receives or holds in trust in respect of a trade in real estate in accordance with the terms of the trust governing the use of that money, and
- (e) clearly mark all cheques drawn on the trust account.

(3) All money deposited under paragraph (2)(b), shall be kept on deposit in the Yukon.

(4) An agent shall submit to the superintendent before March 31 in each year a report by the agent's auditors in the prescribed form,

- (a) stating that the agent has kept proper books and accounts of his trades in real estate,
- (b) stating that the auditor has examined the balance due to clients in trust for the 12 month fiscal period ending no later than January 1 of that year and found them in agreement with the accounting records of the agent,
- (c) stating that the money on deposit held in trust for clients has been verified by personal inspection or by certificates obtained from the bank or trust company with which the deposit account is maintained,
- (d) stating the amount due to clients in trust as reflected by the records of the agent, for the 12 month fiscal period ending no later than January 1 of that year,
- (e) stating that the auditor has done a sufficient review of the trust account transactions of the agent for the 12 month fiscal period ending no later than January 1 of that year, to satisfy himself that the trust money held for clients is kept separate and apart from money belonging to the agent, and
- (f) stating that after due consideration the auditor has formed an independent opinion as to the position of the trust money held for clients, and to the best of his information the trust money held for clients is maintained in a separate trust account and are not less than the amount of trust money received in respect of which there is an undischarged trust obligation.

(5) Notwithstanding any other law, an agent shall preserve his books and accounts of his trades in real estate and his accounting records

- (a) for a period of not less than three years after the books, accounts or records come into existence, or
- (b) for such longer period as the superintendent directs.

(6) Every agent shall instruct the bank or trust company in which he maintains a client's or trust account pursuant to this section to remit the interest earned thereon to the Executive Council Member for deposit to the Yukon Consolidated Revenue Fund.

(7) Nothing in this section affects any arrangement made between a real estate agent and his client to deposit money received from or on behalf of the client or to which the client is entitled in a separate account for the client at interest, which interest shall be the property of the client.

### **Unlicensed agents**

22.(1) No action shall be brought for commission or for remuneration for services in connection with a trade in real estate unless at the time of rendering the services the person bringing the action was licensed as an agent or exempt from the licensing provisions of this Act.

(2) The Supreme Court may stay an action referred to in subsection (1) at any time on summary application.



**Recovery of commission**

**23.** No action shall be brought to charge a person by commission or otherwise for services rendered in connection with the sale of real estate, or any interest therein, unless

- (a) the contract upon which recovery is sought in the action or some note or memorandum thereof is in writing signed by the party to be charged or by his agent lawfully authorized in writing signed by the party to be charged or by his agent lawfully authorized in writing, or
- (b) the person sought to be charged
  - (i) has as a result of the services of an agent employed by him for the purpose effected a sale or lease of real estate or any interest therein, and
  - (ii) has either executed a transfer or lease signed by all other necessary parties and delivered it to the purchaser, or has executed an agreement of sale of real estate or an interest therein, signed by all necessary parties, entitling the purchaser to possession of the real estate or any interest therein, as specified in the agreement, and has delivered the agreement to the purchaser.

**Representations by agents or salespersons**

**24.** A licensed person shall not,

- (a) subject to section 25, make a representation to a vendor that he or another person on his behalf will pay to the vendor of real estate within a fixed or determinable period of time, a fixed or determinable amount of money, or
- (b) subject to section 26, make a representation to a person that he or another person will
  - (i) obtain a mortgage, lease or loan,
  - (ii) have the term of a mortgage or lease altered, or
  - (iii) assume or assign a mortgage or an agreement for sale.

**Guaranteed sale agreements**

**25.(1)** In this section, “guaranteed sale agreement” means an agreement in writing whereby a licensed agent or other person on behalf of or to the benefit of a licensed agent undertakes to pay to the vendor of real estate within a fixed or determinable period of time a fixed or determinable amount of money in respect of that vendor’s real estate.

(2) Every licensed agent who enters into a guaranteed sale agreement or has another person enter into a guaranteed sale agreement on behalf of or to the benefit of that licensed agent, shall maintain a separate trust account in a chartered bank or trust company in which money payable under this section shall be deposited.

(3) Where a guaranteed sale agreement is entered into by a licensed agent or other person on behalf of or to the benefit of a licensed agent, that agent shall deposit into the trust account maintained under subsection (2) not less than five percent of the total amount that may be payable under the guaranteed sale agreement.

(4) Where money is deposited under subsection (3), it shall be held in trust for the vendor and shall be

- (a) paid to the vendor or to such other person as that vendor directs as part of the total amount payable under the guaranteed sale agreement,

- (b) forfeited to the vendor where he is not paid in accordance with the guaranteed sale agreement, or
- (c) returned to the agent where, pursuant to the terms of the guaranteed sale agreement, there is no longer any money payable to the vendor under that guaranteed sale agreement.

(5) Any money deposited under subsection (3) shall remain on deposit in the Yukon until it is paid out under subsection (4).

- (6) Where a deposit is forfeited under paragraph (4)(b),
  - (a) a forfeiture shall not prejudice any action that the vendor may have against the agent or other parties to the guaranteed sale agreement, and
  - (b) the money forfeited may be applied toward any sums which that vendor may be entitled to receive as damages arising out of the non-performance of the guaranteed sale agreement.

(7) Where a licensed agent or other person who entered into a guaranteed sale agreement with a vendor purchases the vendor's real estate pursuant to that sale agreement, no commission shall be payable to that licensed agent or other person by that vendor in respect of that trade.

(8) A licensed salesperson or a designated representative shall not enter into a guaranteed sales agreement except in the course of his employment on behalf of the agent by whom that licensed salesperson or designated representative is employed.

**Undertaking by agent**

- 26.** An agent may undertake to
- (a) obtain a mortgage, lease or loan, or
  - (b) have a term of a mortgage or lease altered, or
  - (c) assume or assign a mortgage or an agreement for sale,

if the undertaking is set forth in writing and a copy of that undertaking is delivered to the person to whom the undertaking is made.

**Advertising**

**27.(1)** When advertising to purchase, sell, exchange, or lease any real estate whatsoever a licensed person shall clearly indicate

- (a) that he is the party advertising, and
- (b) that he is a licensed person.

(2) A reference to the name of a salesperson in the advertisement of an agent referred to in subsection (1) shall clearly indicate that the real estate agent is the employer of the salesperson.

**Use of name**

- 28.** A licensed person shall not trade in real estate
- (a) as an agent or salesperson in any other name than that which appears on his licence,

- (b) on behalf of himself or another person without disclosing to the parties he is dealing with that he is licensed under this Act, or
- (c) on behalf of another licensed person without disclosing to the parties he is dealing with that he and that other licensed person are licensed under this Act.

### **Employment of salesperson of another agent**

#### **29. No agent shall**

- (a) employ, permit or engage the salesperson of another agent or an unlicensed salesperson to trade in real estate, or
- (b) pay commission or other remuneration to such a salesperson.

### **Commission**

**30.** A licensed agent shall not pay a commission or other fee for services rendered in connection with a trade in real estate except to a licensed salesperson employed by him or to an agent who is licensed pursuant to this Act or comparable legislation in another jurisdiction.

### **Purchase by agent**

**31.** No agent or salesperson shall purchase for himself either directly or indirectly real estate listed with him for sale, nor shall he acquire any interest therein either directly or indirectly, unless he has clearly disclosed in writing to the listing owner complete details of any negotiations for the sale of the said property to another person.

### **Duties of salesperson**

#### **32. No salesperson**

- (a) shall trade in real estate on behalf of an agent other than the agent who, according to the records of the superintendent, is his employer, or
- (b) is entitled to or may accept a commission or other remuneration for trading in real estate from a person except the agent who is licensed as his employer.

### **Commission**

#### **33.(1) No agent or salesperson**

- (a) shall request or enter into an arrangement for the payment to him of commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price thereof, or
- (b) may retain a commission or other remuneration computed on a basis referred to in paragraph (a).

(2) Commission or other remuneration payable to an agent in respect of the sale of real estate shall be on an agreed amount or percentage of the sale price.

(3) Where no agreement as to the amount of commission has been entered into, the rate of commission or other basis or amount of remuneration shall not exceed five percent of the sale price.

**Exclusive listing agreement**

34. An agreement purporting to be or being an exclusive listing of real estate for sale, exchange, lease, or rental is not valid unless it is in writing.

**Agreement to list real estate**

35.(1) Where an agreement to list real estate with an agent for the purpose of a trade is in writing, a true copy of that agreement shall be delivered by that agent as soon as practicable to the owner of that real estate or to the person entering that agreement on behalf of that owner.

(2) An agreement under subsection (1) is void if it

- (a) provides for more than one date upon which it expires,
- (b) does not specify a date on which it expires,
- (c) does not provide for the amount of or the rate of commission payable in respect of the trade, or
- (d) does not provide for the terms or conditions upon which the commission is payable in respect of the trade.

**Copy of offer or acceptance of offer**

36. Where a licensed person receives an offer or an acceptance of an offer in writing from a party to a trade in real estate, he shall, as soon as practicable,

- (a) provide that party with a true copy of that offer or acceptance, and
- (b) deliver a true copy of that offer or acceptance to the other parties to that trade.

**Trading in subdivision lots outside the Yukon**

37.(1) A person shall not, directly or indirectly, trade in real estate that is located outside of the Yukon unless

- (a) that trade takes place through an agent licensed under this Act, and
- (b) that person has
  - (i) received written authorization under section 38 from the superintendent to trade in that real estate, or
  - (ii) filed a prospectus with the superintendent and been issued a certificate of acceptance under section 44 in respect of that prospectus.

(2) Subsection (1) does not apply in respect of an isolated trade in real estate where that trade is not part of continued successive transactions of a like nature.

(3) A person shall not make any representation, written or oral, that the superintendent has passed upon

- (a) the financial standing, fitness or conduct of any person in connection with the filed prospectus, or
- (b) the merits of the prospectus.

**Exemption from filing prospectus**

38.(1) Where a person wishes to be given written authorization to trade in real estate without filing a prospectus, he shall

- (a) make application to the superintendent, and
- (b) provide such information as the superintendent requires.

(2) Where the superintendent is satisfied that a trade may take place without the necessity of a prospectus being filed, he may give written authorization for that trade to take place.

(3) The superintendent may at any time cancel a written authorization and require that a prospectus be filed in respect of a trade.

(4) Upon the superintendent giving written authorization under this section, sections 39, 40, 42, 44, 45 and 47 do not apply in respect of the trade during the period that the written authorization is in force.

### **Improper trade in real estate outside the Yukon**

**39.**(1) A person shall not, either as a vendor or as an agent or salesperson, enter into or negotiate any contract in respect of a trade in real estate which is located outside of the Yukon unless

- (a) a copy of the prospectus referred to in section 37 has been delivered to the prospective purchaser, tenant or licensee, as the case may be, and
- (b) the prospective purchaser, tenant or licensee has in writing acknowledged receipt of a copy of the prospectus and that he has been afforded the opportunity to read it.

(2) Every acknowledgment referred to in subsection (1) shall be retained by the vendor or agent and be available for inspection by the superintendent for a period of not less than three years.

(3) Where a purchaser, tenant or licensee has entered into a contract to which subsection (1) applies, he may rescind the contract

- (a) within 30 days of entering into the contract, or
- (b) if subsection (1) has not been complied with.

(4) Where subsection (1) has not been complied with, the contract is unenforceable by the vendor or his agent and any money paid under the contract shall be returned to the purchaser, tenant or licensee at the option of the purchaser, tenant or licensee.

(5) In an action for rescission under paragraph (3)(a) the onus of proving compliance with subsection (1) rests upon the vendor.

(6) The right of rescission provided in this section is in addition to any other rights that the purchaser or tenant may have in respect of the contract.

### **Contents of prospectus**

**40.** Each prospectus submitted to the superintendent for filing shall be accompanied by

- (a) an affidavit of the owner of the subdivision or, where the owner is a corporation, any three directors thereof, as to the correctness of every matter of fact stated in the prospectus,
- (b) a copy of every plan referred to in the prospectus,
- (c) a copy of every form of contract referred to in the prospectus,
- (d) such documents as the superintendent may require to support any statement of fact, proposal or estimate set out in the prospectus,

- (e) a performance bond, surety bond or such other security as the superintendent may require,
- (f) such financial particulars of the owner as the superintendent may require, and
- (g) the prescribed fees.

**Financial statements with prospectus**

**41.(1)** The superintendent may require that a prospectus filed under section 37 contain

- (a) an audited financial statement of the owner for the last fiscal year and reported upon by the owner's auditor, and
- (b) current unaudited financial statements dated not more than 90 days prior to the date of the acceptance of the prospectus by the superintendent where the audited financial statements are dated more than 120 days prior to the date that the prospectus was submitted to the superintendent for filing.

(2) The financial statements shall be in a form acceptable to the superintendent and shall contain such information as the superintendent may require.

**Refusal of prospectus**

**42.** The superintendent shall not grant a certificate of acceptance where it appears that

- (a) the prospectus contains any statement, promise or forecast that is misleading false or deceptive, or has the effect of concealing material facts,
- (b) adequate provision has not been made for the protection of deposits or other funds of purchasers or for assurance of title or other interest contracted for,
- (c) the prospectus fails to comply in any substantial respect with any of the requirements prescribed, or
- (d) the requirements of section 40 have not been complied with in any substantial respect.

**Inquiry by superintendent**

**43.(1)** The superintendent may, before giving written authorization or issuing a certificate of acceptance, make such inquiries as he considers necessary, including

- (a) an examination of the real estate and any of the surrounding circumstances, and
- (b) the obtaining of reports from public authorities or others in the jurisdiction in which the real estate is located.

(2) The reasonable and proper costs of any such inquiry or report shall be borne by the person who wishes the written authorization or on whose behalf the prospectus was filed or submitted for filing.

**Acceptance of prospectus**

**44.** The superintendent shall grant the certificate of acceptance where the requirements of sections 40 to 43 and the regulations have been complied with and in his opinion the action is in the public interest, but the superintendent shall not refuse to grant the certificate without giving the person on whose behalf the prospectus was filed an opportunity to be heard.

**Order to cease trading**

45. Where it appears to the superintendent, subsequent to the filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in section 42 exist or where in his opinion such action is necessary in the public interest, the superintendent may, after giving the person on whose behalf the prospectus was filed an opportunity to be heard, cancel the certificate of acceptance and order that all trading in the real estate to which the prospectus refers shall cease forthwith.

**Appeal**

46. A decision of the superintendent refusing to grant or cancelling a certificate of acceptance may be appealed to the Executive Council Member and the provisions of section 8 shall apply mutatis mutandis.

**Amended or new prospectus**

47.(1) If a change occurs with regard to any of the matters set out in any prospectus

- (a) that would have the effect of rendering a statement in the prospectus false or misleading, or
- (b) that brings into being a fact or proposal that should have been disclosed in the prospectus if the fact or proposal had existed at the time of filing,

the persons who filed the prospectus shall, within 30 days of the change occurring, notify the superintendent in writing of the change and shall file a copy of the prospectus with the changes incorporated in it.

(2) Where the trading referred to in section 37 is still in progress 12 months from the date of the filing of the last prospectus, a new prospectus shall be filed with the superintendent within 30 days from the expiration of such 12 month period.

(3) Sections 37 to 46 apply to an amended prospectus or a new prospectus filed under this section.

**Regulations**

48. The Commissioner in Executive Council may make regulations prescribing the information to be contained in a prospectus required to be filed under section 37 or 47.

**Offences and penalties**

49.(1) A person who contravenes section 37, 39 or 47 is guilty of an offence and liable on summary conviction

- (a) in the case of a person other than a corporation, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year or to both, or
- (b) in the case of a corporation, to a fine of not more than \$25,000.

(2) No proceedings shall be instituted under this section except with the consent of the Executive Council Member.

**Offences and penalties**

50.(1) A person who

- (a) contravenes a provision of this Act or of a regulation, or

- (b) omits, refuses or neglects to fulfil, perform, observe or carry out a duty or obligation created or imposed by this Act or a regulation,

is guilty of an offence and liable on summary conviction for each offence to a fine of not more than \$500.

(2) Where a person is convicted

- (a) of trading in real estate without being licensed contrary to subsection 3(1), or
- (b) of employing a salesperson who is not licensed, contrary to section 29,

he shall, notwithstanding that a fine has been imposed upon him, return to any person on whose behalf he acted in respect of a trade while not being licensed or while employing a salesperson who was not licensed any commission or other remuneration he or that salesperson received from that person in respect of that trade.

### **Burden of proof**

51. In a prosecution under this Act, where the accused pleads that at the time of the act or omission complained of he was the holder of a licence, the burden of proof is on the accused.

### **Commencement of prosecution**

52. A prosecution under this Act may be commenced within two years from the date on which the offence is alleged to have been committed, but not thereafter.

### **Proceedings**

53.(1) No person has a claim for damages against the superintendent or the Government of the Yukon for anything done or to be done in the performance or supposed performance of his duties under this Act.

(2) The superintendent may bring an action and institute proceedings in his name of office,

- (a) for the enforcement of this Act, or
- (b) for the recovery of fees and fines payable under this Act.

### **Statement as evidence**

54. A statement as to the licensing or non-licensing of a person under this Act purporting to be certified by the superintendent is, without proof of the office or signature of the person certifying, receivable in evidence so far as relevant for all purposes in any action proceeding or prosecution.

### **Staff**

55.(1) A superintendent of real estate, a deputy superintendent of real estate and inspectors shall be appointed by the Commissioner in Executive Council.

(2) A deputy superintendent has all the duties and powers of the superintendent in the absence of the superintendent or his inability to act.



**Regulations**

56. For the purpose of carrying into effect the provisions of this Act according to the true intent and meaning thereof, the Commissioner in Executive Council may make such regulations, as he deems necessary, not inconsistent with the spirit of this Act, and without restricting the generality of the foregoing,

- (a) prescribing the amount and form of bonds to be furnished under this Act;
  - (b) prescribing
    - (i) the fees payable on applications for licences, and
    - (ii) any other fees in connection with the administration of this Act;
  - (c) prescribing forms;
  - (d) prescribing the practice and procedure upon an investigation under sections 14 to 20;
  - (e) providing for the qualifications required of applicants for licences.
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# CHAPTER 146

## RECIPROCAL ENFORCEMENT OF JUDGMENTS ACT

### **Interpretation**

1.(1) In this Act,

“judgment” means a judgment or order of a court in a civil proceeding, whether given or made before or after the commencement of this Act, whereby a sum of money is made payable, and

- (a) includes an award in an arbitration proceeding if the award, under the law in force in the state where it was made, has become enforceable in the same manner as a judgment given by a court in that state, but
- (b) does not include an order as that word is defined in the Reciprocal Enforcement of Maintenance Orders Act;

“judgment creditor” means the person by whom the judgment was obtained, and includes his executors, administrators, successors and assigns;

“judgment debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the state in which it was given;

“original court” in relation to a judgment means the court by which the judgment was given;

“registering court” in relation to a judgment means the court in which the judgment is registered under this Act.

(2) All references in this Act to personal service mean actual delivery of the process, notice or other document to be served, to the person to be served therewith personally, and service shall not be held not to be personal service merely because the service is effected outside the state of the original court.

### **Application for registration of judgment**

2.(1) Where a judgment has been given in a court in a reciprocating state, the judgment creditor may apply to the court within six years after the date of the judgment to have the judgment registered, and on any such application the Supreme Court may order the judgment to be registered.

(2) An order for registration under this Act may be made *ex parte* in any case in which the judgment debtor

- (a) was personally served with process in the original action, or
- (b) though not personally served, appeared or defended, or attorned or otherwise submitted to the jurisdiction of the original court,

and in which, under the law in force in the state where the judgment was made, the time within which an appeal may be made against the judgment has expired and no appeal is pending, or an appeal has been made and has been disposed of.

(3) In a case to which subsection (2) applies, the application shall be accompanied by a certificate issued from the original court under its seal and signed by a judge thereof or the clerk thereof.

(4) The certificate shall be in the prescribed form, or to the like effect, and shall set forth the particulars as to the matters therein mentioned.

(5) In a case to which subsection (2) does not apply, such notice of the application for the order as is required by the rules or as the judge deems sufficient shall be given to the judgment debtor.

(6) No order for registration shall be made if the court to which application for registration is made is satisfied that

- (a) the original court acted
  - (i) without jurisdiction under the conflict of laws rules of the court to which application is made, or
  - (ii) without authority, under the law in force in the state where the judgment was made, to adjudicate concerning the cause of action or subject-matter that resulted in the judgment or concerning the person of the judgment debtor,
- (b) the judgment debtor being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court,
- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the state of that court or agreed to submit to the jurisdiction of that court,
- (d) the judgment was obtained by fraud,
- (e) an appeal is pending or the time within which an appeal may be taken has not expired,
- (f) the judgment was in respect of a cause of action that for reasons of public policy or for some similar reason would not have been entertained by the registering court, or
- (g) the judgment debtor would have a good defence if an action were brought on the original judgment.

(7) Registration may be effected by filing the order and an exemplification or a certified copy of the judgment with the clerk of the court in which the order was made, whereupon the judgment shall be entered as a judgment of that court.

(8) If a judgment contains provisions by which a sum of money is made payable and also contains provisions with respect to other matters, such judgment may be registered under this Act in respect of those provisions thereof by which a sum of money is made payable, but may not be so registered in respect of any other provisions therein contained.

**Registration of Yukon judgments elsewhere**

3. Where the original court is a court in the Yukon, that court has jurisdiction to issue a certificate for the purposes of registration of a judgment in a reciprocating state.

**Foreign currencies**

4. Where a judgment sought to be registered under this Act makes payable a sum of money expressed in a currency other than the currency of Canada,

- (a) the registrar of the Supreme Court shall determine the equivalent of the sum in the currency of Canada on the basis of the rate of exchange prevailing at the date of the judgment in the original court, as ascertained from any branch of any chartered bank,
- (b) the registrar shall certify on the order for registration the sum so determined expressed in the currency of Canada, and
- (c) upon its registration, the judgment shall be deemed to be a judgment for the sum so certified.

**Judgments in languages other than English**

5. Where a judgment sought to be registered under this Act is in a language other than the English language, the judgment or the exemplification or certified copy thereof, as the case may be, shall have attached thereto for all purposes of this Act a translation in the English language approved by the Supreme Court, and upon such approval being given the judgment shall be deemed to be in the English language.

**Effect of registration**

6. Where a judgment is registered under this Act,

- (a) the judgment, from the date of the registration, is of the same force and effect as if it had been a judgment given originally in the registering court on the date of the registration and proceedings may be taken thereon accordingly, except that where the registration is made pursuant to an ex parte order, no sale or other disposition of any property of the judgment debtor shall be made under the judgment before the expiration of the period fixed by paragraph 7(1)(b) or such further period as the registering court may order,
- (b) the registering court has the same control and jurisdiction over the judgment as it has over judgments given by itself, and
- (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original court and of the application for registration, are recoverable in like manner as if they were sums payable under the judgment if such costs are taxed by the proper officer of the registering court and his certificate thereof is endorsed on the order for registration.

**Ex parte orders**

7.(1) Where a judgment is registered pursuant to an ex parte order,

- (a) within one month after the registration or within such further period as the registering court may order, notice of the registration shall be served upon the judgment debtor in the same manner as a writ of summons is required to be served, and
- (b) the judgment debtor, within one month after he has had notice of the registration, may apply to the registering court to have the registration set aside.

(2) On any application referred to in paragraph (1)(b) the court may set aside the registration upon any of the grounds mentioned in subsection 2(6) and upon such terms as the court thinks fit.

**Rules of practice**

8. The Commissioner in Executive Council may make rules respecting the practice and procedure including costs in proceedings under this Act and until rules are so made, the rules made under the Reciprocal Enforcement of Judgments Act of the Province of British Columbia shall mutatis mutandis be followed.

**Reciprocating jurisdictions**

9.(1) Where the Commissioner in Executive Council is satisfied that reciprocal provisions have been or will be made by a state in or outside of Canada for the enforcement therein of judgments given in the Yukon, he may by order declare it to be a reciprocating jurisdiction for the purposes of this Act.

(2) The Commissioner in Executive Council may revoke any order made under subsection (1), and thereupon the state with respect to which the order was made ceases to be a reciprocating state for the purposes of this Act.

**Effect of Act**

10. Nothing in this Act deprives a judgment creditor of the right to bring action on his judgment, or on the original cause of action,

- (a) after proceedings have been taken under this Act, or
- (b) instead or proceeding under this Act,

and the taking of proceedings under this Act, whether or not the judgment is registered, does not deprive a judgment creditor of the right to bring action on the judgment or on the original cause of action.

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# **CHAPTER 147**

## **RECIPROCAL ENFORCEMENT OF JUDGMENTS (U.K.) ACT**

### **Interpretation**

1. In this Act, “convention” means the Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters set out in Schedule I.

### **IMPLEMENTATION OF THE CONVENTION**

#### **Request to Canada**

2. The Executive Council Member shall

- (a) request the Government of Canada to designate the Yukon as a territory to which the convention extends, and
- (b) request the Government of Canada to designate the Supreme Court as the court to which application for registration of a judgment given by a court of the United Kingdom may be made and for the other purposes of the convention.

#### **Commencement date of the convention**

3. On, from and after the date the convention enters into force in respect of the Yukon as determined by the convention, the convention is in force in the Yukon and the provisions thereof are law in the Yukon.

#### **Notice of commencement date**

4. The Executive Council Member shall cause to be published in the Yukon Gazette the date the convention comes into force in the Yukon and the courts to which application for registration of a judgment given by a court of the United Kingdom may be made.

#### **Regulations**

5. The Commissioner in Executive Council may make such regulations as are necessary to carry out the intent and purpose of this Act.

#### **Other Acts**

6. Where there is a conflict between this Act and any other enactment, this Act prevails.

### **SOME RIGHTS AND PROCEDURES IN CONSEQUENCE OF THE CONVENTION**

#### **Orders for registration of judgment**

7.(1) An order for registration of a judgment under the convention may be made ex parte in any case in which the judgment debtor

- (a) was personally served with process in the original action, or

- (b) although not personally served, he appeared, defended, attorned or otherwise submitted to the jurisdiction of the original court,

and in which, under the law in force in the state where the judgment was made, the time within which an appeal may be made against the judgment has expired and no appeal is pending or an appeal has been made and has been disposed of.

(2) In a case to which subsection (1) applies, the application shall be accompanied by a certificate issued from the original court, under its seal and signed by a judge or a clerk of that court.

(3) The certificate shall be in the prescribed form and shall set forth the prescribed particulars.

(4) In a case to which subsection (1) does not apply, an application for an order for registration of a judgment under the convention shall be made by originating application under the Rules of Court.

**Setting aside of registration**

8.(1) Where a judgment is registered pursuant to an ex parte order,

- (a) within one month after the registration or within such further time as the registering court may at any time order, notice of the registration shall be served upon the judgment debtor in the same manner as a writ of summons is required to be served, and
- (b) the judgment debtor, within one month after he has notice of the registration, may apply to the Supreme Court to have the registration set aside.

(2) On an application under paragraph (1)(b) the Supreme Court may set aside the registration of the judgment upon any of the grounds established by the convention or by subsection (3) and upon such terms as the court thinks fit.

(3) In addition to the grounds established by the convention, the registration of a judgment may be set aside on any of the following grounds:

- (a) the judgment debtor, being the defendant in the original proceedings, either was not served with the process of the original court or did not receive notice of those proceedings in sufficient time to enable him to defend the proceedings and, in either case, did not appear;
- (b) another judgment has been given by a court having jurisdiction in the matter in dispute prior to the date of judgment in the original court;
- (c) the judgment is not final or appeal is pending, or the judgment debtor is entitled to appeal or to apply for leave to appeal against the judgment in the territory of origin.

**Foreign currencies**

9. Where a judgment sought to be registered under this Act makes payable a sum of money expressed in a currency other than the currency of Canada,

- (a) the clerk of the Supreme Court shall determine the equivalent of that sum in the currency of Canada on the basis of the rate of exchange prevailing at the date of the judgment in the original court, as ascertained from any branch of any chartered bank,



- (b) the clerk shall certify on the order for registration the sum so determined expressed in the currency of Canada, and
- (c) upon its registration, the judgment shall be deemed to be a judgment for the amount so certified.

**Conflicts between the convention and this Act**

10. If there is a conflict between sections 2 to 6 or the convention and sections 7 to 9, then sections 2 to 6 and the convention prevail.

**SCHEDULE I**

**CONVENTION BETWEEN CANADA AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND PROVIDING FOR THE RECIPROCAL RECOGNITION AND ENFORCEMENT OF JUDGMENT IN CIVIL AND COMMERCIAL MATTERS**

Canada, and The United Kingdom of Great Britain and Northern Ireland, desiring to provide on the basis of reciprocity for the recognition and enforcement of judgments in civil and commercial matters, have agreed as follows:

**PART I - DEFINITIONS**

**Article I**

**In this Convention**

- (a) "appeal" includes any proceeding by way of discharging or setting aside a judgment or an application for a new trial or a stay of execution;
- (b) "the 1968 Convention" means the Convention of 27th September, 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters as amended;
- (c) "court of a Contracting State" means
  - (i) in relation to the United Kingdom, any court of the United Kingdom or of any territory to which this Convention extends pursuant to Article XIII;
  - (ii) in relation to Canada, the Federal Court of Canada or any court of a province or territory to which this Convention extends pursuant to Article XII, and the expressions "court of the United Kingdom" and "court of Canada" shall be construed accordingly;
- (d) "judgment" means any decision, however described (judgment, order and the like), given by a court in a civil or commercial matter, and includes an award in proceedings on an arbitration if the award has become enforceable in the territory of origin in the same manner as a judgment given by a court in that territory;
- (e) "judgment creditor" means the person in whose favour the judgment was given, and includes his executors, administrators, successors and assigns;
- (f) "judgment debtor" means the person against whom the judgment was given and includes any person against whom the judgment is enforceable under the law of the territory of origin;
- (g) "original court" in relation to any judgment means the court by which the judgment was given;
- (h) "registering court" means a court to which an application for the registration of a judgment is made;
- (i) "territory of origin" means the territory for which the original court was exercising jurisdiction.

**PART II - SCOPE OF THE CONVENTION**

**Article II**

1. Subject to the provisions of this Article, this Convention shall apply to any judgment given by a court of a Contracting State after the Convention enters into force and, for the purposes of Article IX, to any judgment given by a court of a third State which is party to the 1968 Convention.

2. This Convention shall not apply to

- (a) orders for the periodic payment of maintenance;
- (b) the recovery of taxes, duties or charges of a like nature or the recovery of a fine or penalty;
- (c) judgments given on appeal from decisions of tribunals other than courts;
- (d) judgments which determine
  - (i) the status or legal capacity of natural persons;
  - (ii) custody or guardianship of infants;
  - (iii) matrimonial matters;
  - (iv) succession to or the administration of the estates of deceased persons;
  - (v) bankruptcy, insolvency or the winding up of companies or other legal persons;
  - (vi) the management of the affairs of a person not capable of managing his own affairs.

3. Part III of this Convention shall apply only to a judgment whereby a sum of money is made payable.

4. This Convention is without prejudice to any other remedy available to a judgment creditor for the recognition and enforcement in one Contracting State of a judgment given by a court of the other Contracting State.

**PART III - ENFORCEMENT OF JUDGMENTS**

**Article III**

1. Where a judgment has been given by a court of one Contracting State, the judgment creditor may apply in accordance with Article VI to a court of the other Contracting State at any time within a period of six years after the date of the judgment (or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings) to have the judgment registered, and on any such application the registering court shall, subject to such simple and rapid procedures as each Contracting State may prescribe and to the other provisions of this Convention, order the judgment to be registered.

2. In addition to the sum of money payable under the judgment of the original court including interest accrued to the date of registration, the judgment shall be registered for the reasonable costs of and incidental to registration, if any, including the costs of obtaining a certified copy of the judgment from the original court.

3. If, on an application for the registration of a judgment, it appears to the registering court that the judgment is in respect of different matters and that some, but not all, of the provisions of the judgment are such that if those provisions had been contained in separate judgments those judgments could properly have been registered, the judgment may be registered in respect of the provisions aforesaid but not in respect of any other provisions contained therein.

4. Subject to the other provisions of this Convention

- (a) a registered judgment shall, for the purposes of enforcement, be of the same force and effect;
- (b) proceedings may be taken on it; and
- (c) the registering court shall have the same control over its enforcement,

as if it had been a judgment originally given in the registering court with effect from the date of registration.

#### **Article IV**

1. Registration of a judgment shall be refused or set aside if

- (a) the judgment has been satisfied;
- (b) the judgment is not enforceable in the territory of origin;
- (c) the original court is not regarded by the registering court as having jurisdiction;
- (d) the judgment was obtained by fraud;
- (e) enforcement of the judgment would be contrary to public policy in the territory of the registering court;
- (f) the judgment is a judgment of a country or territory other than the territory of origin which has been registered in the original court or has become enforceable in the territory of origin in the same manner as a judgment of that court; or
- (g) in the view of the registering court the judgment debtor either is entitled to immunity from the jurisdiction of that court or was entitled to immunity in the original court and did not submit to its jurisdiction.

2. The law of the registering court may provide that registration of a judgment may or shall be set aside if

- (a) the judgment debtor, being the defendant in the original proceedings, either was not served with the process of the original court or did not receive notice of those proceedings in sufficient time to enable him to defend the proceedings and, in either case, did not appear;
- (b) another judgment has been given by a court having jurisdiction in the matter in dispute prior to the date of judgment in the original court; or
- (c) the judgment is not final or an appeal is pending or the judgment debtor is entitled to appeal or to apply for leave to appeal against the judgment in the territory of origin.

3. If at the date of the application for registration the judgment of the original court has been partly satisfied, the judgment shall be registered only in respect of the balance remaining payable at that date.

4. A Judgment shall not be enforced so long as, in accordance with the provisions of this Convention and the law of the registering court, it is competent for any party to make an application to have the registration of the judgment set aside or, where such an application is made, until the application has been finally determined.

#### **Article V**

1. For the purposes of Article IV(1)(c) the original court shall be regarded as having jurisdiction if

- (a) the judgment debtor, being a defendant in the original court, submitted to the jurisdiction of that court by voluntarily appearing in this proceedings;

- (b) the judgment debtor was plaintiff in, or counterclaimed in, the proceedings in the original court;
- (c) the judgment debtor, being a defendant in the original court, had before the commencement of the proceedings agreed, in respect of the subject matter of the proceedings, to submit to the jurisdiction of that court or of the courts of the territory of origin;
- (d) the judgment debtor, being a defendant in the original court, was at the time when the proceedings were instituted habitually resident in, or being a body corporate had its principal place of business in, the territory of origin;
- (e) the judgment debtor, being a defendant in the original court, had an office or place of business in the territory of origin and the proceedings were in respect of a transaction effected through or at that office or place; or
- (f) the jurisdiction of the original court is otherwise recognized by the registering court.

2. Notwithstanding anything in sub- paragraphs (d), (e) and (f) of paragraph (1), the original court shall not be regarded as having jurisdiction if

- (a) the subject matter of the proceedings was immovable property outside the territory of origin; or
- (b) the bringing of the proceedings in the original court was contrary to an agreement under which the dispute in question was to be settled otherwise than by proceedings in the courts of the territory of origin.

#### PART IV - PROCEDURES

##### Article VI

1. Any application for the registration in the United Kingdom of a judgment of a court of Canada shall be made

- (a) in England and Wales, to the High Court of Justice;
- (b) in Scotland, to the Court in Session;
- (c) in Northern Ireland, to the High Court of Justice.

2. Any application for the registration in Canada of a judgment of a court of the United Kingdom shall be made

- (a) in the case of a judgment relating to a matter within the competence of the Federal Court of Canada, to the Federal Court of Canada;
- (b) in the case of any other judgment, to a court of a province or territory designated by Canada pursuant to Article XII.

3. The practice and procedure governing registration (including notice to the judgment debtor and applications to set registration aside) shall, except as otherwise provided in this Convention, be governed by the law of the registering court.

4. The registering court may require that an application for registration be accompanied by

- (a) the judgment of the original court or a certified copy thereof;
- (b) a certified translation of the judgment, if given in a language other than the language of the territory of the registering court;
- (c) proof of the notice given to the defendant in the original proceedings, unless this appears from the judgment; and
- (d) particulars of such other matters as may be required by the rules of the registering court.

**Article VII**

All matters concerning

- (a) the conversion of the sum payable under a registered judgment into the currency of the territory or the registering court; and
- (b) the interest payable on the judgment with respect to the period following its registration

shall be determined by the law of the registering court.

**PART V - RECOGNITION OF JUDGMENTS**

**Article VIII**

Any judgment given by a court of one Contracting State for the payment of a sum of money which could be registered under this Convention, whether or not the judgment has been registered, and any other judgment given by such a court, which if it were a judgment for the payment of a sum of money could be registered under this Convention, shall, unless registration has been or would be refused or set aside on any ground other than that the judgment has been satisfied or could not be enforced in the territory of origin, be recognized in a court of the other Contracting State as conclusive between the parties thereto in all proceedings founded on the same cause of action.

**PART VI - RECOGNITION AND ENFORCEMENT OF THIRD STATE JUDGMENTS**

**Article IX**

1. The United Kingdom undertakes, in the circumstances permitted by Article 59 of the 1968 Convention, not to recognize or enforce under that Convention any judgment given in a third State which is a Party to that Convention against a person domiciled or habitually resident in Canada.

2. For the purposes of paragraph (1)

- (a) an individual shall be treated as domiciled in Canada if and only if he is resident in Canada and the nature and circumstances of his residence indicate that he has a substantial connection with Canada; and
- (b) a corporation or association shall be treated as domiciled in Canada if and only if it is incorporated or formed under a law in force in Canada and has a registered office there, or its central management and control is exercised in Canada.

**PART VII - FINAL PROVISIONS**

**Article X**

This Convention shall not affect any conventions, international instruments or reciprocal arrangements to which both Contracting States are or will be parties and which, in relation to particular matters, govern the recognition or enforcement of judgments.

**Article XI**

Either Contracting State may, on the exchange of instruments of ratification or at any time thereafter, declare that it will not apply the Convention to a judgment that imposes a liability which that State is under a treaty obligation toward any other State not to recognize or enforce. Any such declaration shall specify the treaty containing the obligation.

**Article XII**

1. On the exchange of instruments of ratification, Canada shall designate the provinces or territories to which this Convention shall extend and the courts of the provinces and territories concerned to which application for the registration of a judgment given by a court of the United Kingdom may be made.
2. The designation by Canada may be modified by a further designation given at any time thereafter.
3. Any designation shall take effect three months after the date on which it is given.

**Article XIII**

1. The United Kingdom may at any time while this Convention is in force declare that this Convention shall extend to the Isle of Man, any of the Channel Islands, Gibraltar or the Sovereign Base Areas of Akrotiri and Dhekelia (being territories to which the 1968 Convention may be applied pursuant to Article 60 of that Convention).
2. Any declaration pursuant to paragraph (1) shall specify the courts of the territories to which application for the registration of a judgment given by a court of Canada shall be made.
3. Any declaration may by the United Kingdom pursuant to this Article may be modified by a further declaration given at any time thereafter.
4. Any declaration pursuant to this Article shall take effect three months after the date on which it is given.

**Article XIV**

1. This Convention shall be ratified; instruments of ratification shall be exchanged at London.
  2. This Convention shall enter into force three months after the date on which instruments of ratification are exchanged.
  3. This Convention may be terminated by notice in writing by either Contracting State and it shall terminate three months after the date of such notice.
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# CHAPTER 148

## RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS ACT

### **Interpretation**

#### **1. In this Act,**

- “certified copy” means, in relation to a document of a court, the original or a copy of the document certified by the original or facsimile signature of a proper officer of the court to be a true copy;
- “claimant” means a person who has or is alleged to have a right to maintenance;
- “confirmation order” means a confirmation order made under this Act or under the corresponding enactment of a reciprocating state;
- “court” means an authority having jurisdiction to make an order;
- “director” means the director of maintenance and custody enforcement under the Maintenance and Custody Orders Enforcement Act;
- “final order” means an order made in a proceeding of which the claimant and respondent had proper notice and in which they had an opportunity to be present or represented, and includes
  - (a) the maintenance provisions in a written agreement between a claimant and a respondent where those provisions are enforceable in the state in which the agreement was made as if contained in an order of a court of that state, and
  - (b) a confirmation order made in a reciprocating state;
- “maintenance” includes support or alimony;
- “order” means an order or determination of a court providing for the payment of money as maintenance by the respondent named in the order for the benefit of the claimant named in the order, and includes the maintenance provisions of an affiliation order;
- “provincially appointed judge” includes a judge of the Territorial Court;
- “provisional order” means an order of a court in the Yukon that has no force or effect in the Yukon until confirmed by a court in a reciprocating state or a corresponding order made in a reciprocating state for confirmation in the Yukon;
- “reciprocating state” means a state declared under subsection 18(2) to be a reciprocating state, and includes a province;
- “registered order” means
  - (a) a final order made in a reciprocating state and filed under this Act with a court in the Yukon,
  - (b) a final order deemed under subsection 2(3) to be a registered order, or
  - (c) a confirmation order that is filed under subsection 5(8);
- “registration court” means the court in the Yukon
  - (a) in which the registered order is filed under this Act, or
  - (b) that deems a final order to be a registered order under this Act;
- “respondent” means a person in the Yukon or in a reciprocating state who has or is alleged to have an obligation to pay maintenance for the benefit of a claimant, or against whom a proceeding under this Act, or a corresponding enactment of a reciprocating state, is commenced;

“state” includes a political subdivision of a state and an official agency of a state.

**Registration of final order from reciprocating state**

2.(1) Where the director receives a certified copy of a final order made in a reciprocating state with information that the respondent is in the Yukon, the director shall designate a court in the Yukon for the purposes of the registration and enforcement of the order, and shall forward the order and supporting material to that court.

(2) On receipt of a final order transmitted to a court under subsection (1) or under a provision in a reciprocating state corresponding to paragraph 5(8)(a), the proper officer of the court shall file the order with the court and give notice of the registration of the order to the respondent.

(3) Where a final order is made in the Yukon and the claimant subsequently leaves the Yukon and is apparently resident in a reciprocating state, the court that made the order shall, on the written request of the claimant, the respondent or the director, deem the order to be a registered order.

(4) A registered order varied in a manner consistent with this Act continues to be a registered order.

(5) A respondent may, within one month after receiving notice of the registration of a registered order, apply to the registration court to set the registration aside.

(6) On application under subsection (5) the registration court shall set aside the registration if it determines that the order was obtained by fraud or error or was not a final order.

(7) An order determined not to be a final order and set aside under subsection (6) may be dealt with by the registration court under section 5 as a provisional order.

(8) Where an order purporting to be a final order is made by a court in a reciprocating state and the order is not enforceable in the Yukon under the conflict of laws rules of the Yukon, the court in the Yukon may, in its discretion, deem the order to be a provisional order and deal with it under this Act.

**Provisional orders by court in the Yukon**

3.(1) On application by a claimant, a court may, without notice to and in the absence of a respondent, make a provisional order against the respondent.

(2) An order under subsection (1) shall not include maintenance provisions in excess of those the court could have included in a final order in a proceeding of which the respondent had notice in the Yukon but in which he failed to appear.

(3) Where a provisional order is made, a proper officer of the court shall send to the director for transmission to a reciprocating state

- (a) three certified copies of the provisional order,
- (b) a sworn document setting out or summarizing the evidence given in the proceeding,



- (c) a copy of the enactments under which the respondent is alleged to have an obligation to maintain the claimant, and
- (d) a statement giving available information respecting identification, location, income and assets of the respondent.

(4) Where, during a proceeding for a confirmation order, a court in a reciprocating state remits the matter back for further evidence to the court in the Yukon that made the provisional order, the court in the Yukon shall, after giving notice to the claimant, receive further evidence.

(5) Where evidence is received under subsection (4), a proper officer of the court shall forward to the court in the reciprocating state a sworn document setting out or summarizing the evidence, with such recommendations as the court in the Yukon considers appropriate.

(6) Where a provisional order made under this section comes before a court in a reciprocating state and confirmation is denied in respect of one or more claimants, the court in the Yukon that made the provisional order may, on application within six months from the denial of confirmation, reopen the matter, receive further evidence and make a new provisional order for a claimant in respect of whom confirmation was denied.

### **Parentage**

4.(1) Where the parentage of a child is in issue and has not previously been determined by a court of competent jurisdiction, the parentage may be determined as part of a maintenance proceeding under this Act.

(2) If the respondent disputes parentage in the course of a proceeding to confirm a provisional order for maintenance, the matter of parentage may be determined even though the provisional order makes no reference to parentage.

(3) A determination of parentage under this section has effect only for the purpose of maintenance proceedings under this Act.

### **Provisional order received from reciprocating state**

5.(1) Where the director receives from a reciprocating state documents corresponding to those described in subsection 3(3) with information that the respondent is in the Yukon, the director shall forward the documents to the Supreme Court or the Territorial Court.

(2) On receipt of the documents referred to in subsection (1), the court shall issue a summons to the respondent in the same manner as it would in a proceeding under the Maintenance and Custody Orders Enforcement Act for the same relief and shall proceed, taking into consideration the sworn document setting out or summarizing the evidence given in the proceeding in the reciprocating state.

(3) Where the respondent apparently is outside the territorial jurisdiction of the court and will not return, a proper officer of the court, on receipt of documents under subsection (1), shall return the documents to the director with available information respecting the whereabouts and circumstances of the respondent.

(4) At the conclusion of a proceeding under this section the court may make a confirmation order in the amount it considers appropriate or make an order refusing maintenance to any claimant.

(5) Where the court makes a confirmation order for periodic maintenance payments, the court may direct that the payments begin from a date not earlier than the date of the provisional order.

(6) The court, before making a confirmation order in a reduced amount or before denying maintenance, shall decide whether to remit the matter back for further evidence to the court that made the provisional order.

(7) Where a court remits a matter under subsection (6), it may make an interim order for maintenance against the respondent.

(8) At the conclusion of a proceeding under this section, the court or a proper officer of the court shall

- (a) forward a certified copy of the order to the court that made the provisional order and to the director,
- (b) file the confirmation order, where one is made, and
- (c) where an order is made refusing or reducing maintenance, give written reasons to the court that made the provisional order and to the director.

**Choice of law and proof of enactments**

6.(1) Where the law of the reciprocating state is pleaded to establish the obligation of the respondent to maintain a claimant resident in that state, the court in the Yukon shall take judicial notice of that law and apply it.

(2) An enactment of a reciprocating state may be pleaded and proved for the purposes of this section by producing a copy of the enactment received from the reciprocating state.

(3) Where the law of the reciprocating state is not pleaded under subsection (1), the court in the Yukon shall

- (a) make an interim order for maintenance against the respondent where appropriate,
- (b) adjourn the proceeding for a period not exceeding 90 days, and
- (c) request the director to notify the appropriate officer of the reciprocating state of the requirement to plead and prove the applicable law of that state if that law is to be applied.

(4) Where the law of the reciprocating state is not pleaded after an adjournment under subsection (3), the court shall apply the law of the Yukon.

(5) Where the law of a reciprocating state requires the court in the Yukon to provide the court in the reciprocating state with a statement of the grounds on which the making of the confirmation order might have been opposed if the respondent were served with a summons and had appeared at the hearing of the court in the Yukon, the director shall be deemed to be the proper officer of the court for the purpose of making and providing the statement of the grounds.

**Variation and rescission**

7.(1) The provisions of this Act respecting the procedure for making provisional orders and confirmation orders apply with the necessary changes to proceedings, except under subsection (5), for the variation or rescission of registered orders.

(2) This section does not

- (a) authorize a provincially appointed judge to vary or rescind a registered order made in Canada by a federally appointed judge, or
- (b) allow a registered order originally made under a federal enactment to be varied or rescinded except as authorized by a federal enactment.

(3) Notwithstanding subsection (2), a provincially appointed judge may make a provisional order to vary or rescind a registered order made in Canada under a provincial enactment by a federally appointed judge.

(4) Subject to subsections (2) and (3), a registration court has jurisdiction to vary or rescind a registered order where both the claimant and respondent accept its jurisdiction.

(5) Where the respondent is ordinarily resident in the Yukon a registration court may, on application by the claimant, vary or rescind a registered order.

(6) A registration court may make a confirmation order for the variation or rescission of a registered order where

- (a) the respondent is ordinarily resident in the Yukon,
- (b) the claimant who initiated the application for variation or rescission in a reciprocating state is ordinarily resident in the reciprocating state,
- (c) a certified copy of a provisional order of variation or rescission made by a court in a reciprocating state is received by the registration court through the director, and
- (d) the respondent is given notice of the proceeding and an opportunity to appear.

(7) A registration court may, on application by the respondent, vary or rescind a registered order

- (a) where
  - (i) the respondent is ordinarily resident in the Yukon,
  - (ii) the claimant is ordinarily resident in a reciprocating state other than the state in which the order was first made, and
  - (iii) the registration court, in the course of the proceeding, remits the matter to the court nearest to the place where the claimant lives or works for the purpose of obtaining evidence on behalf of the claimant, or
- (b) where
  - (i) the respondent is ordinarily resident in the Yukon,
  - (ii) the claimant is not ordinarily resident in a reciprocating state, and
  - (iii) the claimant is given notice of the proceeding.

(8) A registration court may make a confirmation order for the variation or rescission of a registered order where

- (a) the respondent who initiated the application in a reciprocating state for variation or rescission is ordinarily resident in the reciprocating state,
- (b) the claimant is ordinarily resident in the Yukon,
- (c) a certified copy of a provisional order of variation or rescission made by a court in the reciprocating state is received by the registration court through the director, and
- (d) the claimant is given notice of the proceeding and an opportunity to appear.

(9) Where a claimant ordinarily resident in the Yukon applies for the variation or rescission of a final order and the respondent apparently is ordinarily resident in a reciprocating state, the court may make a provisional order of variation or rescission, and section 3 applies with the necessary changes to the proceeding.

(10) Where the respondent is ordinarily resident in the Yukon and the claimant is ordinarily resident in the reciprocating state in which the registered order was first made, a registration court may, on application by the respondent, make a provisional order varying or rescinding a registered order and section 3 applies with the necessary modifications to the proceeding.

**Variation in other state**

8. Where an order originally made in the Yukon is varied or rescinded in a reciprocating state under the law in that state corresponding to section 7, the order shall be deemed to be so varied or rescinded in the Yukon.

**Enforcement**

9.(1) The registration court has jurisdiction to enforce a registered order notwithstanding that the order

- (a) was made in a proceeding in respect of which the registration court would have had no jurisdiction, or
- (b) is of a kind that the registration court has no jurisdiction to make.

(2) The provisions of the Maintenance and Custody Orders Enforcement Act for the enforcement of support orders apply with the necessary changes to registered orders and interim orders made under this Act.

(3) A registered order has, from the date it is filed or deemed to be registered, the same effect as if it had been a final order originally made by the registration court and may, both with respect to arrears accrued before registration and with respect to obligations accruing after registration, be enforced, varied or rescinded as provided in this Act.

(4) Where a registered order is registered with the Supreme Court, it may be enforced as if it were an order of the Supreme Court.

(5) Where a proceeding is brought to enforce a registered order, it is not necessary to prove that the respondent was served with the order.

(6) Where a registered order is being enforced and the registration court finds that the order has been varied by a court subsequent to the date of registration, the registration court shall record the fact of the variation and enforce the order as varied.

### **Remedies of a state**

10. Where the Government of the Yukon, a province, a state or a political subdivision or official agency of the Government of the Yukon, a province or a state is providing or has provided support to a claimant, it has, for the purpose of obtaining reimbursement or to obtain continuing maintenance for the claimant, the same right to bring proceedings under this Act as the claimant.

### **Duties of the director**

11.(1) The director shall, on request in writing by a claimant or an officer or court of a reciprocating state, take all reasonable measures to enforce an order made or registered under this Act.

(2) On receipt of a document for transmission under this Act to a reciprocating state, the director shall transmit the document to the proper officer of the reciprocating state.

(3) The director may, in writing, authorize a person to perform or exercise a power or duty given to the director under this Act.

### **Documents of other states**

12.(1) Where a document signed by a presiding officer of the court in a reciprocating state or a certified copy of the document is received by a court in the Yukon through the director, the court in the Yukon may deem the document to be a provisional order or a final order, according to the tenor of the document, and proceed accordingly.

(2) Where in a proceeding under this Act a document from a court in a reciprocating state contains terminology different from the terminology of this Act or customarily in use in the court in the Yukon, the court in the Yukon shall give a broad and liberal interpretation to the terminology so as to give effect to the document.

(3) For the purposes of this Act, it shall be presumed, unless the contrary is established, that procedures taken in a reciprocating state have been regular and complete and that the court making an order in a reciprocating state had jurisdiction recognized under the conflict of laws rules of the Yukon.

### **Canadian currency and translation requirements**

13.(1) Where confirmation of a provisional order or registration of a final order is sought and the documents received by a court refer to amounts of maintenance or arrears not expressed in Canadian currency, a proper officer of the court shall first obtain from a bank a quotation for the equivalent amounts in Canadian currency at a rate of exchange applicable on the day the order was last made or varied.

(2) The amounts in Canadian currency certified on the order by the proper officer of the court under subsection (1) shall be deemed to be the amounts of the order.

(3) Where an order or other document received by a court is not in English, the order or other document shall have attached to it from the other jurisdiction a translation in English approved by the court, and the order or other document shall be deemed to be in English for the purposes of this Act.

**Appeals**

14.(1) Subject to subsections (2), (3) and (4), a claimant, respondent or the director may appeal any ruling, decision or order of a court in the Yukon under this Act to the Supreme Court.

(2) Subject to subsection (3), an appeal under subsection (1) shall be taken by notice of appeal given within 30 days after the making of the ruling, decision or order appealed from.

(3) A person resident in the reciprocating state and entitled to appear in the court in the reciprocating state in the proceeding being appealed from, or the director on that person's behalf, may appeal within 75 days after the making of the ruling, decision or order of the court in the Yukon appealed from.

(4) A person responding to an appeal under subsection (3) may appeal a ruling, decision or order in the same proceeding within 15 days after receipt of notice of the appeal.

(5) The Supreme Court may grant an extension of time to appeal under this section.

(6) The procedure for the conduct of an appeal under this section shall be, with such reasonable modifications directed by the Supreme Court as may be necessary, the same as for an appeal in the Court of Appeal.

(7) Upon hearing an appeal, the Supreme Court may affirm, reverse or modify the order appealed against, and make such other auxiliary order as seems proper.

(8) An order under appeal remains in force pending the determination of the appeal, unless the court appealed to orders otherwise.

**Evidence**

15.(1) In a proceeding under this Act, spouses are competent and compellable witnesses against each other.

(2) In a proceeding under this Act, a document purporting to be signed by a judge, officer of a court or public officer in a reciprocating state shall, unless the contrary is proved, be proof of the appointment, signature and authority of the person who signed it.

(3) Statements in writing sworn to by the maker, depositions or transcripts of evidence taken in a reciprocating state may be received in evidence by a court in the Yukon under this Act.

(4) For the purposes of proving default or arrears under this Act a court may receive in evidence a sworn document made by any person deposing to have knowledge of, or information and belief concerning, the fact.

**Statement of payments**

16. A registration court or a proper officer of it shall, on the reasonable request of a claimant, respondent or the director, a proper officer of a reciprocating state or of a court of that state, furnish a sworn itemized statement showing with respect to maintenance under an order,

- (a) all amounts that became due and owing by the respondent during the 24 months preceding the date of the statement, and
- (b) all payments made through the court by or on behalf of the respondent during that period.

**Departure of respondent**

17. Where a proper officer of a court in the Yukon believes that a respondent under a registered order has ceased to reside in the Yukon and is resident in or proceeding to another province or state, the officer shall inform the director and the court that made the order of any information he has respecting the whereabouts and circumstances of the respondent and, on request by the director, a proper officer of the court that made the order or the claimant, shall send to the court or person indicated in the request,

- (a) three certified copies of the order as filed with the court in the Yukon, and
- (b) a sworn certificate of arrears.

**Regulations**

18.(1) The Commissioner in Executive Council may make such regulations as are ancillary to this Act and not inconsistent with it.

(2) The Commissioner in Executive Council may, where satisfied that laws are or will be in effect in a state for the reciprocal enforcement of orders made in the Yukon on a basis substantially similar to this Act, by order, declare that state to be a reciprocating state.

(3) In any proceeding under this Act, the fact that a state is a reciprocating state shall be judicially noticed.

**Savings provision**

19. This Act does not impair any other remedy available to a claimant or another person, the Government of the Yukon, a province, a state or a political subdivision or official agency of the Government of the Yukon, a province or state.

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# CHAPTER 149

## RECORDING OF EVIDENCE ACT

### Interpretation

1. In this Act,

“court” means any court, a judge of any court, justice of the peace, arbitrator, umpire, commissioner or other person authorized by law or by order of a court or otherwise, to hear any witnesses or take any evidence or to make any order, decree, finding, decision or report or to exercise any judicial or quasi-judicial function;

“evidence” includes judgments, decisions, opinions, speeches, reports and all other matters done or said by or before any court;

“judge” includes any person lawfully presiding in a court;

“proceeding” means any civil case, prosecution under an Act or other matter to which the legislative authority of the Legislature extends, that is before a court;

“record” means a record made in accordance with section 2;

“reporter” means an official court reporter duly appointed in accordance with law or a stenographer or typist;

“sound recording apparatus” means any device, machine or system of a type approved by the Commissioner in Executive Council for the making of a record of voice or other sound;

“trial” includes all motions, applications, trials and other matters which may properly be taken before a judge.

### Recording of evidence by sound recording apparatus

2. Notwithstanding any other Act, the evidence in any proceeding or any portion of such evidence may be recorded by sound recording apparatus.

### Certification of record

3.(1) A record shall be certified, by the judge or by the court official in charge of the sound recording apparatus during the proceeding, as being the record made of the evidence or part thereof, as the case may be, in the proceeding.

(2) A certificate made under this section is, without proof of the signature of the judge or person in charge of the sound recording apparatus or of this official character, admissible in evidence as prima facie proof that the record is the record of the evidence or part thereof, as the case may be, in the proceeding.

### Typewritten copies

4. A typewritten copy of the whole or any part of the contents of a record,

(a) reduced to writing by a reporter, and

(b) certified by the reporter to be a true and faithful transcript of the contents of the record,

is admissible in evidence before any court to the same extent and with the same effect as a transcript of shorthand notes duly prepared by a reporter in accordance with law.

**Playing of records in court**

5. The sounds recorded upon a record may be reproduced in a court by any appropriate machine or device and the reproduction shall be received by the court to the same extent and with the same effect as a typewritten copy prepared pursuant to section 4.

**Filing of records**

6. All records shall be filed in the office of the clerk of the Supreme Court and shall not be removed except with authority of the clerk for use in court or as required by an Act or rule of the Supreme Court or upon the order of a judge of the Supreme Court.

**Order for destruction of records**

7.(1) Any time after two years from the making of a record a judge of the Supreme Court may order the record destroyed or the recording thereon erased, cancelled, or otherwise destroyed.

(2) An order made pursuant to subsection (1) may be a general order to apply to all or any records made before a date set out in the order.

**Regulations**

8. The Commissioner in Executive Council may make regulations for carrying out the purposes of this Act.

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# **CHAPTER 150**

## **RECREATION ACT**

### **Interpretation**

1. In this Act,

- “committee” means the Yukon Recreation Advisory Committee established under section 3;
- “community recreation” means recreation that is within the responsibilities of a municipality under section 14 or a local authority under section 17;
- “local authority” means a community organization appointed as a local authority under section 16;
- “Yukon recreation” means recreation that is within the responsibilities of the Executive Council Member under section 19.

### **Application of the Act**

2. This Act applies to all recreational activities taking place in the Yukon or involving residents of the Yukon including, without limiting the generality of the foregoing,

- (a) amateur sports,
- (b) physical fitness activities,
- (c) performing, visual and literary arts, and
- (d) outdoor recreation.

## **YUKON RECREATION ADVISORY COMMITTEE**

### **Establishment of the committee**

3. There shall be a Yukon Recreation Advisory Committee consisting of 12 members appointed by the Executive Council Member pursuant to section 5 and the regulations.

### **Functions of the committee**

4. The committee shall have the following functions:

- (a) to advise the Executive Council Member respecting recreation in the Yukon;
- (b) to perform the duties assigned by the other provisions of this Act;
- (c) to perform such other duties as may be assigned to it by the Executive Council Member.

### **Membership**

5.(1) The membership of the committee shall be divided equally among persons who, in the opinion of the Executive Council Member, have demonstrated interest, knowledge or experience in Yukon arts, Yukon sports or community recreation.

(2) Subject to subsection (1), the membership of the committee shall be divided equally between

- (a) persons who, in the opinion of the Executive Council Member, are representatives of urban areas,
- (b) persons who, in the opinion of the Executive Council Member, are representatives of rural areas.

(3) The Commissioner in Executive Council shall make regulations providing for the selection of members of the committee from nominations that may be made by municipalities, local authorities and arts, sports and general recreational organizations registered under the Societies Act.

(4) The term of membership in the committee is two years.

**Conflict of interest**

6.(1) Where a member of the committee has a direct or indirect personal interest, otherwise than as a member of the public or an organization, in any matter under review by the committee, he shall refrain from participating in the review of the matter by the committee.

(2) Where any member of the committee is prevented for any reason from performing his duties, the Executive Council Member may appoint a substitute for such period of time as the Executive Council Member considers appropriate, subject to subsection 5(4).

**Chairperson of the committee**

7.(1) The Executive Council Member shall appoint one of the members of the committee to be the chairperson and another to be the vice-chairperson.

(2) The chairperson is the chief executive officer of the committee, and he shall

- (a) supervise and direct the work of the committee, and
- (b) preside at sittings of the committee.

(3) Where the chairperson is unable at any time for any reason to exercise the powers and perform the duties of his office, the vice-chairperson shall act in his place.

**Committee meetings**

8. The committee shall meet at the call of the chairperson, who shall convene such meetings as he considers desirable for the conduct of the business of the committee.

**Quorum**

9.(1) A majority of the members of the committee is a quorum, and no quorum exists unless the chairperson or vice-chairperson is present.

(2) Subject to subsection (1), a decision of the majority of the members present at a meeting of the committee is a decision of the committee, but in the event of an evenly divided opinion between members of the committee, including the vote of the chairperson, the matter shall be decided in accordance with the vote of the chairperson.

(3) A vacancy in the membership of the committee reduces the number of members required for a quorum and, subject to subsections (1) and (2), does not impair the right of the other members to act.

**Committee procedure**

10. The committee may make rules of procedure consistent with this Act and the regulations respecting

- (a) the conduct of its meetings and business,

- (b) the records to be kept in respect of the business of the committee under this Act,
- (c) the custody, preservation and provision of access to the records referred to in paragraph (b),
- (d) the making of applications for grants under sections 21 to 24, including the information to be supplied in support of such applications, and
- (e) any other matter that reasonably is necessary or advisable for the effective and orderly conduct of the duties of the committee.

### **Reports to the Executive Council Member**

11. At the request of the Executive Council Member and at such other times as the committee considers appropriate, the committee shall make reports to the Executive Council Member respecting the business of the committee.

### **Secretary and administrative services**

12. Subject to the Public Service Commission Act, the Executive Council Member shall make provision for a secretary and other administrative support services for the committee.

### **Expenses of members**

13. A member of the committee may be paid transportation, accommodation and living expenses incurred in connection with the performance of his duties as a member of the committee away from his ordinary place of residence but, except as otherwise provided by the regulations, the payment of such expenses shall conform as nearly as possible in all respects to the payment of such expenses for members of the public service of the Yukon.

## **COMMUNITY RECREATION**

### **Municipal responsibilities**

14.(1) For the purposes of this Act, a municipality is responsible for

- (a) all matters respecting the recreation of its residents taking place exclusively within the municipality, and
- (b) sports competitions at the recreational or competitive level between residents of the municipality and residents of other communities.

(2) A municipality may accept responsibility for any matter respecting the recreation of its residents in addition to its responsibilities under subsection (1).

### **Grants to municipalities**

15. The Commissioner in Executive Council may, subject to such terms and conditions as may be prescribed, make grants to municipalities for the purpose of assisting them in the performance of their responsibilities under sections 14 and 25.

### **Appointment of local authorities**

16.(1) The Commissioner in Executive Council may, for the purposes of this Act, appoint a community organization to be the local authority for a geographic area specified in the order making the appointment.

- (2) A community organization shall not be appointed under subsection (1) unless
- (a) the organization requests the appointment,
  - (b) the organization is registered under the Business Corporations Act or the Societies Act, or is an Indian Band under the Indian Act (Canada), and
  - (c) a school, community hall or other adequate facility is located within the geographic area for which it is appointed.

#### **Responsibilities of local authority**

17.(1) For the purposes of this Act, a local authority is responsible for

- (a) all matters respecting the recreation of residents of its geographic area, as defined under section 16, taking place exclusively within that area, and
- (b) sports competitions at the recreational or competitive level between residents of the area and residents of other communities.

(2) A local authority may accept responsibility for any matter respecting the recreation of the residents of its area in addition to its responsibilities under subsection (1).

#### **Grants to local authorities**

18. The Commissioner in Executive Council may, subject to such terms and conditions as may be prescribed, make grants to local authorities for the following purposes:

- (a) assisting them in the performance of their responsibilities under section 17 and 25;
- (b) defraying the operation and maintenance costs of specified community recreation facilities.

### **YUKON RECREATION**

#### **Responsibilities of Executive Council Member**

19. For the purposes of this Act, the Executive Council Member is responsible for all matters respecting recreation not within the responsibility of a municipality or local authority under section 14 or 17, including

- (a) matters of national or international significance,
- (b) matters of regional significance outside the Yukon,
- (c) Yukon championships and trials, and
- (d) advanced inter-community training.

#### **Terms and conditions for grants**

20. For the purpose of fulfilling the responsibilities of the Executive Council Member under sections 19 and 25, the Executive Council Member may, upon the advice of the committee, make grants under sections 21 to 24, subject to such terms and conditions as may be prescribed including, without limiting the generality of the foregoing, terms and conditions respecting

- (a) the prerequisites or eligibility requirements for receipt of a grant,
- (b) the purposes for which a grant may be made,
- (c) the manner in which a grant may be made,
- (d) the manner in which grant money may be expended by the recipient of a grant,
- (e) the records to be kept by recipients of grants, and
- (f) such other terms and conditions as the Commissioner in Executive Council considers advisable.

**Sports grants**

21. Grants may be made to a recreational organization for the following purposes respecting sports:

- (a) administrative costs, including costs of travel to meetings in the Yukon or to national or regional meetings outside the Yukon;
- (b) skill training and leadership development, including training of instructors;
- (c) holding competitions, including the cost of travel to national and regional competitions;
- (d) provision of leadership;
- (e) such other purposes as may be prescribed.

**Arts grants**

22. Grants may be made to recreational organizations for the following purposes respecting arts:

- (a) administrative costs, including costs of travel to meetings in the Yukon or to national or regional meetings outside the Yukon;
- (b) skill training and leadership development, including training of instructors;
- (c) holding performances, shows, displays or tours;
- (d) promotion of the works and talents of performers and artists;
- (e) such other purposes as may be prescribed.

**Grants for advanced artists or performers**

23. Grants may be made to advanced artists or performers for skill development, or for the promotion of their works or talents.

**Other grants**

24. Grants may be made to recreational organizations for the following purposes respecting fitness, outdoor recreation, major recreational events or other recreational activities not within the scope of sections 21 and 22:

- (a) administrative costs, including costs of travel to meetings in the Yukon or to national or regional meetings outside the Yukon;
- (b) skill training and leadership development, including the training of instructors;
- (c) such other purposes as may be prescribed.

**GENERAL****Joint responsibilities**

25. The Executive Council Member is jointly responsible with the municipalities and local authorities for the following matters respecting arts:

- (a) intercommunity training or events at the recreational level;
- (b) community training or events at the advanced level.

**Regulations**

26. The Commissioner in Executive Council may, in addition to any regulations authorized to be made under any other provision of this Act, make such regulations as he considers necessary to carry the purposes and provisions of this Act into effect.





# CHAPTER 151

## REGULATIONS ACT

### **Interpretation**

1. In this Act,

“file” means file with the registrar in the manner prescribed in section 2;

“local authority” means the council of a municipality, under the Municipal Act;

“publish” means publish in the manner prescribed in section 3;

“registrar” means the registrar of regulations appointed under this Act;

“regulation” means any regulation, proclamation, rule, order or bylaw made under the authority of any Act of the Legislature but does not include

- (a) an order or decision of a judicial tribunal,
- (b) a rule, order or regulation governing the practice or procedure in any proceedings before a judicial tribunal,
- (c) a rule, order, regulation, resolution or bylaw made by a local authority, or
- (d) a rule, regulation or bylaw of a company incorporated under the laws of the Yukon;

“regulation-making authority” means every authority authorized to make regulations and with reference to a regulation means the authority that made the regulation.

### **Filing and coming into force**

2.(1) Every regulation-making authority shall, within 15 days after it makes a regulation, file with the registrar that regulation or a certified copy thereof.

(2) Unless a later day is provided, a regulation shall come into force on the day it is filed with the registrar.

### **Publication**

3.(1) The registrar shall, within one month of the filing thereof, publish the title of every regulation in the Yukon Gazette.

(2) The Commissioner in Executive Council may, by order, extend the time for publication and a copy of the order shall be published with the title of the regulation.

(3) No regulation is invalid by reason only that it was not published in the Yukon Gazette, but no person shall be convicted for an offence consisting of a contravention of any regulation the title of which was not published in the Yukon Gazette, unless it is proved that at the time of the alleged contravention reasonable steps have been taken for the purpose of bringing the purport of the regulation to the notice of the public or the persons likely to be affected by it or the person charged.

### **Evidence**

4.(1) A regulation the title of which has been published in the Yukon Gazette shall be judicially noticed.

(2) Production of a certificate by the registrar that the regulation was filed on a specified date is prima facie proof that it was so filed.

(3) In addition to any mode of proof, evidence of a regulation may be given by the production of

- (a) the Yukon Gazette purporting to contain the title thereof,
- (b) a consolidation or supplement of the regulation published pursuant to paragraph 8(1)(d), or
- (c) a copy or extract of the regulation certified as a true copy or extract by the registrar.

**Exemptions**

5. The Commissioner in Executive Council may exempt from any of the provisions of this Act

- (a) exemption orders under the Workers Compensation Act,
- (b) committal orders under the Mental Health Act, and
- (c) civil emergency plan regulations under the Civil Emergency Measures Act.

**Registrar of regulations**

6. The Commissioner in Executive Council shall appoint a registrar of regulations who shall, under the control and direction of the Executive Council Member, be responsible for the recording, numbering and indexing of all regulations filed with him and for the publication thereof in accordance with this Act.

**Numbering and citation of regulations**

7.(1) Regulations filed with the registrar shall be numbered in accordance with the regulations under this Act.

(2) Regulations may be cited by their title or by the number assigned to them under subsection (1).

**Regulations**

8.(1) The Commissioner in Executive Council may make regulations

- (a) prescribing the powers and duties of the registrar;
- (b) prescribing the form and arrangement of regulations;
- (c) prescribing a system of indexing regulations;
- (d) providing for the publication of consolidations of regulations filed pursuant to this Act at such intervals of time as he deems advisable and for the publication of supplements to the consolidations;
- (e) prescribing fees that may be charged by the registrar for the inspection of any regulation;
- (f) generally for carrying out the provisions of this Act.

(2) Publication of a regulation in any consolidation or supplement thereto shall be deemed publication within the meaning of this Act.

# CHAPTER 152

## REHABILITATION SERVICES ACT

### **Interpretation**

1. In this Act,

“board” means the Yukon Rehabilitation Services board;

“coordinator” means the coordinator of rehabilitation services;

“disabled person” means a person who, because of a physical or mental impairment, learning difficulty, a lack of preparation or as a result of technological change is incapable of pursuing regularly any substantially gainful occupation;

“rehabilitation services” means any process of restoration, training and employment placement, including services related thereto, the object of which is to enable a person to become capable of pursuing regularly a substantially gainful occupation.

### **Agreement with Canada**

2. The Commissioner in Executive Council may enter into agreements with the Government of Canada for the purpose of providing for payment by the Government of Canada to the Government of the Yukon of contributions in respect of the costs incurred by the Government of the Yukon in undertaking in the Yukon a comprehensive program for the rehabilitation of disabled persons or undertaking projects, the purpose of which is to prepare disabled persons for entry or return to employment.

### **Application for rehabilitation services**

3. Application for rehabilitation services under this Act may be made by or on behalf of a disabled person

- (a) who is not eligible for vocational rehabilitation under the Veterans Rehabilitation Act (Canada), or
- (b) whose disability is not the result of an injury in respect of which benefits are payable to that person under any workers compensation law.

### **Coordinator**

4.(1) The Commissioner in Executive Council shall appoint a coordinator of rehabilitation services and when the coordinator is absent, his powers and duties shall be exercised by a person designated by the Commissioner in Executive Council.

(2) The Commissioner in Executive Council may establish a Yukon Rehabilitation Services Board consisting of a chairperson and not less than four members.

### **Duties of the board**

5. The board shall

- (a) establish appropriate means of seeking disabled persons in need of rehabilitation services,
- (b) coordinate the services being provided to disabled persons,
- (c) hear appeals pursuant to section 7, and
- (d) make recommendations to the Executive Council Member respecting the provision of rehabilitation services.

## **Training and selection committee**

6. The Commissioner in Executive Council may establish a training and selection committee consisting of the Coordinator as chairperson and not less than two members who shall have the jurisdiction of approving in respect of applicants the provision of rehabilitation services.

## **Appeals**

7.(1) Any person directly affected by a decision of the committee may, by notice in writing, appeal the decision to the board within two weeks of the notification to him of the decision.

(2) On receipt of a notice of appeal pursuant to subsection (1), the board shall meet and consider the matter and shall give the applicant and the committee an opportunity to be heard respecting the decision.

(3) At the hearing of the appeal, the parties may appear in person or may be represented by counsel or agent.

(4) After considering the matter and hearing the parties or their representatives, the board shall decide the appeal and shall deliver a copy of their decision together with the reasons for the decision to the parties.

(5) A decision of the board shall be final and no appeal shall lie therefrom except as provided by subsection (6).

(6) A judge of the Territorial Court has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi judicial basis, made by or in the course of proceedings before the board upon the ground that the board

- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction,
- (b) erred in law in making its decision or order, whether or not the error appears on the face of the record, or
- (c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

(7) Any application pursuant to subsection (6) may be made by the coordinator or any party directly affected by the decision or order by filing a notice of the application within ten days of the time the decision or order was first communicated to the coordinator or to that party by the board or within such further time as the judge of the Territorial Court may allow either before or after the expiry of those ten days.

(8) The board may at any stage of the proceedings before it, refer any question or issue of law, or jurisdiction to a judge of the Territorial Court for hearing and determination.

(9) An application or reference to a judge of the Territorial Court made under this section shall be heard and determined without delay and in a summary way.

**Regulations**

8. The Commissioner in Executive Council may make regulations

- (a) governing the manner of making applications;
- (b) prescribing qualifications of applicants;
- (c) prescribing what proof of any fact, including evidence under oath, is to be furnished by an applicant;
- (d) prescribing the rehabilitation services that may be approved;
- (e) providing for the suspension or cancellation of rehabilitation services;
- (f) providing for investigations respecting persons who have applied for rehabilitation services or for whom rehabilitation services have been approved;
- (g) prescribing the amounts to be paid to or on behalf of disabled persons for whom rehabilitation services are approved and the manner and times of payment;
- (h) prescribing additional duties of the coordinator;
- (i) prescribing the records that shall be kept under this Act;
- (j) prescribing forms;
- (k) generally for carrying out the provisions of this Act.

**Offence and penalty**

9. Every person who violates a provision of this Act or the regulations commits an offence and is liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

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# CHAPTER 153

## RETIREMENT PLAN BENEFICIARIES ACT

### Interpretation

1. In this Act,

“annuity” includes an amount payable on a periodic basis, whether payable at intervals longer or shorter than a year;

“participant” means a person who is entitled to designate another person to receive a benefit payable under a plan on the first person’s death;

“plan” means

(a) a pension, retirement, welfare or profit-sharing fund, trust, scheme, contract or arrangement for the benefit of employees, former employees, agents or former agents of an employer or their dependants or beneficiaries, whether established by or pursuant to a statute or otherwise, or

(b) a fund, trust, scheme, contract or arrangement for the payment of an annuity for life or for a fixed or variable term or under which money is paid for the purpose of providing, upon the happening of a specified event, for the purchase of, or the payment of, an annuity for life or for a fixed or variable term,

created before or after the commencement of this section, and includes a retirement savings plan and a home ownership savings plan as defined in the Income Tax Act (Canada);

“will” has the same meaning as in the Wills Act.

### Designation of beneficiary

2. A participant may designate a person to receive a benefit payable under a plan on the participant’s death

(a) by an instrument signed by him or signed on his behalf by another person in his presence and by his direction, or

(b) by will,

and may revoke the designation by either of those methods.

### Designation by will

3. A designation in a will is effective only if it refers to the plan either generally or specifically.

### Revocation by will

4. A revocation in a will of a designation made by an instrument is not effective to revoke the designation made by the instrument unless the revocation refers to the plan or the designation either generally or specifically.

### Subsequent designations

5. Notwithstanding anything to the contrary in the Wills Act, a later designation revokes an earlier designation to the extent of any inconsistency.

**Designation in a revoked will**

6. Revocation of a will is effective to revoke a designation in the will that is revoked.

**Designation in an invalid will**

7. A designation or revocation contained in an instrument purporting to be a will is not invalid by reason only of the fact that the instrument is invalid as a will.

**Revocation of designation in an invalid will**

8. A designation in an instrument that purports to be, but is not, a valid will is revoked by an event that would have the effect of revoking the instrument if it had been a valid will.

**Effect of revocation**

9. Revocation of a designation does not revive an earlier designation.

**Effective date in the case of a will**

10. Notwithstanding the Wills Act, a designation or revocation in a will is effective from the time when the will is signed.

**Rights of designated person**

11. Where a participant in a plan has designated a person to receive a benefit under the plan on the death of the participant,

- (a) the person administering the plan is discharged on paying the benefit to the person designated in the latest designation made in accordance with the terms of the plan, in the absence of actual notice of a subsequent designation or revocation made under section 2 but not in accordance with the terms of the plan, and
- (b) the person designated may enforce payment of the benefit payable to him or her under the plan, but the person administering the plan may set up any defence that he or she could have set up against the participant or the personal representative of the participant.

**Inconsistencies between the Act and a plan**

12. Where this Act is inconsistent with a plan, this Act applies to the extent of any inconsistency unless

- (a) the inconsistency relates to a designation made or proposed to be made after the making of a benefit payment, and
- (b) the benefit payment so made would have been different if the designation had been made before the benefit payment was made,

in which case the plan applies.

**Insurance Act**

13. This Act does not apply to a contract of insurance nor to a designation or revocation of a designation to which the Insurance Act applies.



# CHAPTER 154

## SALE OF GOODS ACT

### Interpretation

1.(1) In this Act,

- “action” includes counterclaim and set off;
- “buyer” means a person who buys or agrees to buy goods;
- “contract of sale” includes an agreement to sell as well as the sale;
- “delivery” means voluntary transfer of possession from one person to another;
- “document of title to goods” has the same meaning as it has in the Factors Act;
- “fault” means wrongful act or default;
- “future goods” means goods to be manufactured or acquired by the seller after the making of the contract of sale;
- “goods” includes all chattels personal, other than things in action or money, and includes emblements, industrial growing crops and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale;
- “property” means the general property in goods and not merely a special property;
- “quality of goods” includes their state or condition;
- “sale” includes a bargain and sale as well as a sale and delivery;
- “seller” means a person who sells or agrees to sell goods;
- “specific goods” means goods identified and agreed upon at the time a contract of sale is made;
- “warranty” means an agreement with reference to goods that are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(2) A thing is deemed to be done “in good faith” within the meaning of this Act when it is in fact done honestly, whether it is done negligently or not.

(3) A person is deemed to be insolvent within the meaning of this Act who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

(4) Goods are in a “deliverable state” within the meaning of this Act when they are in such a state that the buyer would under the contract be bound to take delivery of them.

## **PART 1 FORMATION OF THE CONTRACT**

### **CONTRACT OF SALE**

#### **Sale and agreement to sell**

2.(1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price; there may be a contract of sale between one part owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred.

#### **Capacity to buy and sell**

3.(1) Subject to subsection (2), capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property.

(2) Where necessaries are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract he is bound to pay a reasonable price therefor.

(3) The expression "necessaries" in subsection (2) means goods suitable to the condition in life of the infant, minor or other person and to his actual requirements at the time of the sale and delivery.

### **FORMALITIES OF THE CONTRACT**

#### **Contract of sale how made**

4.(1) Subject to the provisions of this Act and of any Act in that behalf a contract of sale may be made in writing, either with or without seal, or by word of mouth or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

(2) Nothing in this section affects the law relating to corporations.

#### **Contract for sale over \$1,000**

5.(1) A contract for the sale of goods of the value of \$1,000 or upwards is not enforceable by action unless the buyer accepts part of the goods so sold and actually receives the same or gives something in earnest to bind the contract or in part payment or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf.

(2) This section applies to every contract for the sale of goods of the value of \$1,000 or upwards notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of the contract be actually made, procured or provided or fit or ready for delivery or some act may be requisite for the making or completing thereof or rendering them fit for delivery.

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods that recognizes a pre-existing contract of sale whether there be an acceptance in performance of the contract or not.

### **SUBJECT MATTER OF CONTRACT**

#### **Existing or future goods**

6.(1) The goods that form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Act called "future goods".

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency that may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods the contract operates as an agreement to sell the goods.

#### **Goods that have perished**

7. Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void.

#### **Goods perishing before sale but after agreement to sell**

8. Where there is an agreement to sell specific goods and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer the agreement is thereby avoided.

### **THE PRICE**

#### **Ascertainment of price**

9.(1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in a manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer is bound to pay a reasonable price; what is a reasonable price is a question of fact dependent on the circumstances of each particular case.

#### **Agreement to sell at valuation**

10.(1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and the third party cannot or does not make such valuation the agreement is avoided; but where the goods or any part thereof have been delivered to and appropriated by the buyer he is bound to pay a reasonable price therefor.

(2) Where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault.

## CONDITIONS AND WARRANTIES

### Stipulation as to time

**11.(1)** Unless a different intention appears from the terms of the contract, stipulations as to time of payment are deemed not to be of the essence of a contract of sale; whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

(2) In a contract for sale "month" means prima facie calendar month.

### When condition to be treated as warranty

**12.(1)** Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of the condition as a breach of warranty, and not as a ground for treating the contract as repudiated.

(2) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated, depends in each case on the construction of the contract; a stipulation may be a condition though called a warranty in the contract.

(3) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof or where the contract is for specific goods the property in which has passed to the buyer, the breach of a condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated unless there is a term of the contract expressed or implied to that effect.

(4) Nothing in this section affects a condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise.

### Implied undertaking as to title, etc.

**13.** In a contract of sale unless the circumstances of the contract are such as to show a different intention there is

- (a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass,
- (b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods, and
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made.

**Sale by description**

**14.** When there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and if the sale is by sample as well as by description, it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

**Implied conditions as to quality or fitness**

**15.** Subject to the provisions of this Act and of any Act in that behalf there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale except as follows:

- (a) where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment and the goods are of a description that it is in the course of the seller's business to supply, whether he is the manufacturer or not, there is an implied condition that the goods shall be reasonably fit for such purpose;
- (b) where goods are bought by description from a seller who deals in goods of that description, whether he is the manufacturer or not, there is an implied condition that the goods shall be of merchantable quality; except that if the buyer has examined the goods there is no implied condition as regards defects that such examination ought to have revealed;
- (c) an implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade;
- (d) an express warranty or condition does not negative a warranty or condition implied by this Act unless inconsistent therewith.

**SALE BY SAMPLE****Sale by sample**

**16.(1)** A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect.

(2) In the case of a contract for sale by sample,

- (a) there is an implied condition that the bulk shall correspond with the sample in quality,
- (b) there is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample, and
- (c) there is an implied condition that the goods shall be free from any defect rendering them unmerchantable that would not be apparent on reasonable examination of the sample.

**PART 2****EFFECTS OF THE CONTRACT****TRANSFER OF PROPERTY AS BETWEEN SELLER AND BUYER****Goods must be ascertained**

**17.** Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained.

**Property passes when intended to pass**

18.(1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case.

**Rules for ascertaining intention**

19.(1) Unless a different intention appears the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

- (a) where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both is postponed;
- (b) where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing is done and the buyer has notice thereof;
- (c) where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof;
- (d) when goods are delivered to the buyer on approval or ‘‘on sale or return’’ or other similar terms the property therein passes to the buyer
  - (i) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction, or
  - (ii) where he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection and a time has been fixed for the return of the goods, on the expiration of such time; and where no time has been fixed, on the expiration of a reasonable time; what is a reasonable time is a question of fact;
- (e) where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the assent of the buyer or by the buyer with the assent of the seller the property in the goods thereupon passes to the buyer; such assent may be expressed or implied and may be given either before or after the appropriation is made.

(2) Where in pursuance of a contract referred to in paragraph (1)(e) the seller delivers the goods to the buyer or to a carrier or other bailee, whether named by the buyer or not, for the purpose of transmission to the buyer and does not reserve the right of disposal he is deemed to have unconditionally appropriated the goods to the contract.

**Reservation of right of disposal**

20.(1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract the seller may by the terms of the contract or appropriation reserve the right of disposal of the goods until certain conditions are fulfilled; in

such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent the seller is prima facie deemed to have the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him.

### **Risk prima facie passes with property**

21.(1) Subject to subsections (2) and (3), unless otherwise agreed the goods remain at the seller's risk until the property therein is transferred to the buyer; but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not.

(2) Where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss that might not have occurred but for such fault.

(3) Nothing in this section affects the duties or liabilities of either seller or buyer as a bailee or custodian of the goods of the other party.

## **TRANSFER OF TITLE**

### **Sale by person not owner**

22.(1) Subject to this Act, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

(2) Nothing in this Act affects

- (a) the provisions of the Factors Act or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof, or
- (b) the validity of any contract or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction.

### **Sale under voidable title**

23. When the seller of goods has a voidable title thereto but his title has not been voided at the time of sale the buyer acquires a good title to the goods if he buys them in good faith and without notice of the seller's defect of title.

### **Seller or buyer in possession after sale**

24.(1) When a person having sold goods continues or is in possession of the goods or of the document of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other

disposition thereof to any person receiving them in good faith and without notice of the previous sale has the same effect as if the person making the delivery or transfer was expressly authorized by the owner of the goods to make it.

(2) Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving them in good faith and without notice of any lien or other right of the original seller in respect of the goods has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

(3) In this section the term “mercantile agent” has the same meaning as in the Factors Act.

### **PART 3**

#### **PERFORMANCE OF THE CONTRACT**

##### **Duties of seller and buyer**

25. It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale.

##### **Payment and delivery are concurrent conditions**

26. Unless otherwise agreed delivery of the goods and payment of the price of concurrent conditions, that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods.

##### **Rules as to delivery**

27.(1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract expressed or implied between the parties; apart from any such contract express or implied the place of delivery is the seller’s place of business if he has one and, if not, his residence; but if the contract is for the sale of specific goods that to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of the sale are in possession of a third person, there is no delivery by seller to buyer unless and until the third person acknowledges to the buyer that he holds the goods on his behalf.

(4) Nothing in this section affects the operation of the issue or transfer of any document of title to goods.



(5) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour; what is a reasonable hour is a question of fact.

(6) Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller.

### **Delivery of wrong quantity**

**28.(1)** Where the seller delivers to the buyer a quantity of goods less than he contracted to sell the buyer may reject them; but if the buyer accepts the goods so delivered he is bound to pay for them at the contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest or he may reject the whole; when the buyer accepts the whole of the goods so delivered he is bound to pay for them at the contract rate.

(3) Where the seller delivers to the buyer goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods that are in accordance with the contract and reject the rest or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties.

### **Delivery by instalments**

**29.(1)** Unless otherwise agreed the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments that are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated.

### **Delivery to carrier**

**30.(1)** Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not for the purpose of transmission to the buyer is prima facie deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorized by the buyer, the seller is bound to make such contract with the carrier on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case; when the seller omits to do so and the goods are lost or damaged in course of transit the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages.

(3) Unless otherwise agreed where goods are sent by the seller to the buyer by a route involving sea transit under circumstances in which it is usual to insure, the seller is bound to give such notice to the buyer as may enable him to insure them during their sea transit; and where the seller fails to do so the goods are deemed to be at his risk during such sea transit.

#### **Risk where goods delivered at distant place**

**31.** Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold the buyer is nevertheless bound, unless otherwise agreed, to take any risk of deterioration in the goods necessarily incident to the course of transit.

#### **Buyer's right of examining goods**

**32.(1)** Where goods are delivered to the buyer that he has not previously examined he is deemed not to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed when the seller tenders delivery of goods to the buyer he is bound on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract.

#### **Acceptance**

**33.** The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them that is inconsistent with the ownership of the seller or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them.

#### **Buyer not bound to return rejected goods**

**34.** Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them having the right so to do, he is not bound to return them to the seller but it is sufficient if he intimates to the seller that he refuses to accept them.

#### **Liability for neglecting or refusing delivery of goods**

**35.(1)** When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods.

(2) Nothing in this section affects the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract.

## **PART 4**

### **RIGHTS OF UNPAID SELLER AGAINST THE GOODS**

#### **Definitions**

**36.(1)** The seller of the goods is deemed to be an "unpaid seller" within the meaning of this Act

- (a) when the whole of the contract price has not been paid or tendered, or

- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Part the term “seller” includes a person who is in the position of a seller; for example, an agent of the seller to whom the bill of lading has been endorsed or a consignee or agent who has himself paid or is directly responsible for the price.

### **Unpaid seller’s rights**

**37.**(1) Subject to the provisions of this Act and of any Act in that behalf, notwithstanding that the property in the goods may have passed to the buyer the unpaid seller of goods as such has by implication of law,

- (a) a lien on the goods or right to retain them for a price while he is in possession of them,
- (b) in the case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them, and
- (c) a right of re-sale as limited by this Act.

(2) Where the property in goods has not passed to the buyer the unpaid seller has in addition to his other remedies a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage in transitu where the property has passed to the buyer.

## **UNPAID SELLER’S LIEN**

### **Seller’s lien**

**38.**(1) Subject to this Act the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price, in any of the following cases, namely:

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit but the term of credit has expired;
- (c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer.

### **Part delivery**

**39.** Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention of the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention.

### **Termination of lien**

**40.**(1) The unpaid seller of goods loses his lien or right of retention thereon

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods,
- (b) when the buyer or his agent lawfully obtains possession of the goods, or
- (c) by waiver thereof.

(2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods.

## STOPPAGE IN TRANSITU

### Right of stoppage in transitu

**41.** Subject to this Act, when the buyer of goods becomes insolvent the unpaid seller who has parted with the possession of the goods has the right of stopping them in transitu; that is to say, he may resume possession of the goods as long as they are in course of transit and may retain them until payment or tender of the price.

### Duration of transit

**42.(1)** Goods are deemed to be in course of transit from the time when they are delivered to a carrier, by land or water, or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(2) When the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

(3) Where, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) Where the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is deemed not to be at an end even if the seller has refused to receive them back.

(5) Where goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf the remainder of the goods may be stopped in transitu unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods.

### How stoppage in transitu effected

**43.(1)** The unpaid seller may exercise his right of stoppage in transitu either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are; such notice may be given either to the person in actual possession of the goods or to his principal; in the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent delivery to the buyer.

(2) When notice of stoppage in transitu is given by the seller to the carrier or other bailee in possession of the goods he must redeliver the goods to or according to the direction of the seller; the expenses of such redelivery are to be borne by the seller.

### **RESALE BY BUYER OR SELLER**

#### **Effect of subsale or pledge by buyer**

44.(1) Subject to this Act the unpaid seller's right of lien or retention or stoppage in transitu is not affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto.

(2) Where a document of title of goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage in transitu is defeated and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage in transitu can only be exercised subject to the rights of the transferee.

#### **Sale not generally rescinded by lien or stoppage in transitu**

45.(1) Subject to this section a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage in transitu.

(2) Where an unpaid seller who has exercised his rights of lien or retention or stoppage in transitu resells the goods the buyer acquires a good title thereto as against the original buyer.

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

(4) Where the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default resells the goods the original contract of sale is thereby rescinded but without prejudice to any claim the seller may have for damages.

## **PART 5**

### **ACTIONS FOR BREACH OF THE CONTRACT**

#### **REMEDIES OF THE SELLER**

##### **Action for price**

46.(1) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract the seller may maintain an action against him for the price of the goods.

(2) Where under a contract of sale the price is payable on a certain day, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

(3) Nothing in this section shall be construed to prejudice the right of the seller to recover interest on the price from the date of tender of the goods or from the date on which the price was payable, as the case may be.

### **Damages for non-acceptance**

**47.(1)** Where the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may maintain an action against him for damages for non-acceptance.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or if no time was fixed for acceptance then at the time of the refusal to accept.

## **REMEDIES OF THE BUYER**

### **Damages for non-delivery**

**48.(1)** Where the seller wrongfully neglects or refuses to deliver the goods to the buyer the buyer may maintain an action against the seller for damages for non-delivery.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is prima facie to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered or if no time was fixed then at the time of the refusal to deliver.

### **Specific performance**

**49.** In any action for breach of contract to deliver specific or ascertained goods the court may if it thinks fit on the application of the plaintiff by its judgment or decree direct that the contract shall be performed specifically without giving the defendant the option of retaining the goods on payment of damages; the judgment or decree may be unconditional or upon such terms and conditions as to damages, payment of the price and otherwise as to the court may seem just and the application by the plaintiff may be made at any time before judgment or decree.

### **Remedy for breach of warranty**

**50.(1)** Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may

- (a) set up against the seller the breach of warranty in diminution or extinction of the price, or
- (b) maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

(3) In the case of breach of warranty of quality such loss is prima facie the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage.

### **Interest and special damages**

51. Nothing in this Act affects the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable or to recover money paid where the consideration for the payment of it has failed.

## **PART 6 SUPPLEMENTARY**

### **Exclusion of implied terms and conditions**

52. Where any right, duty or liability would arise under a contract of sale by implication of law it may be negatived or varied by express agreement or by the course of dealing between the parties or by usage if the usage is such as to bind both parties to the contract.

### **Reasonable time a question of fact**

53. Where by this Act any reference is made to a reasonable time the question as to what is a reasonable time is a question of fact.

### **Rights, etc., enforceable by action**

54. Where any right, duty or liability is declared by this Act it may unless otherwise by this Act provided be enforced by action.

### **Auction sale**

55.(1) Where goods are put up for sale by auction in lots each lot is prima facie deemed to be the subject of a separate contract of sale.

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; until such announcement is made any bidder may retract his bid.

(3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller it is not lawful for the seller to bid himself or to employ any person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person; any sale contravening this rule may be treated as fraudulent by the buyer.

(4) A sale by auction may be notified to be subject to a reserve or upset price and the right to bid may also be reserved expressly by or on behalf of the seller; where a right to bid is expressly reserved, but not otherwise, the seller or any one person on his behalf may bid at the auction.

**Payment into court when breach of warranty alleged**

56. Where a buyer has elected to accept goods that he might have rejected and to treat a breach of contract as only giving rise to a claim for damages he may in an action by the seller for the price be required, in the discretion of the court before which the action depends, to consign or pay into court the price of the goods or part thereof or to give other reasonable security for the due payment thereof.

**Existing laws preserved subject hereto**

57.(1) The rules of the common law including the law merchant except insofar as they are inconsistent with the express provisions of this Act and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress, coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods.

(2) Nothing in this Act affects an enactment relating to bills of sale or any enactment relating to the sale of goods except as expressly provided by this Act.

(3) The provisions of this Act relating to contracts of sale do not apply to any transaction in the form of a contract of sale that is intended to operate by way of mortgage, pledge, charge or other security.

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# CHAPTER 155

## SCHOOL ACT

### PART 1

#### GENERAL ADMINISTRATION

##### Interpretation

1. In this Act,

- “assistant superintendent” means an assistant superintendent of education appointed pursuant to subsection 8(1);
- “board” means a board of school trustees of a school district duly constituted under this Act;
- “elementary school” means the several grades in any school as defined by the Commissioner in Executive Council regulations;
- “lay-off” means a person who has been laid off pursuant to section 91 and who is suitable and qualified for continued employment as a teacher;
- “parent” includes the lawful guardian of a child;
- “pupil” means a person who is enrolled in a school;
- “registrar” means the registrar appointed pursuant to subsection 8(2);
- “regional superintendent” means a regional superintendent of schools appointed pursuant to subsection 8(1);
- “school committee” means a school committee duly established under this Act;
- “school” means a school to which this Act applies;
- “secondary school” means the several grades in any school as defined by the Commissioner in Executive Council regulations;
- “superintendent” means the superintendent of education appointed pursuant to section 7;
- “school year” means a year commencing on July 1 and ending on June 30 next following;
- “taxpayer” means a person whose name appears on the current assessment roll of the Yukon or of a municipality and shall include a person in respect of whose children an annual grant in lieu of school taxes is paid by the Government of Canada;
- “teacher” means a person holding a valid and subsisting certificate of qualification issued pursuant to section 15, who is appointed or employed by the Government of the Yukon or a board to give tuition or instruction or to administer or supervise instructional service in a school, includes a person to whom is issued pursuant to this Act a letter of permission to teach, and for the purpose of sections 77 to 97 includes any person who is an employee pursuant to section 118, but does not include a person appointed pursuant to sections 7 or 8.

##### Classification of schools

2. The school system of the Yukon shall consist of
- (a) Yukon schools established by the Executive Council Member pursuant to sections 3 and 4, and
  - (b) district schools established pursuant to Part 7.

**Yukon schools**

3. The Executive Council Member may establish Yukon schools at any place in the Yukon.

**Non-Catholic schools**

4.(1) The Executive Council Member may establish Yukon schools at any place in the Yukon exclusively or mainly for the education of children not of the Roman Catholic faith.

(2) The Executive Council Member may establish Yukon schools at any place in the Yukon exclusively or mainly for the education of children of the Roman Catholic faith.

**Closure of schools**

5. The Executive Council Member may close any school established pursuant to section 3 or 4.

**Operation of schools**

6. The Executive Council Member shall operate, manage and maintain any school established by him pursuant to section 3 or 4.

**Superintendent of education**

7. The Commissioner in Executive Council shall appoint an officer to be called the superintendent of education.

**Other officials**

8.(1) The Commissioner in Executive Council may appoint assistant superintendents of education, regional superintendents of schools, and other persons to assist the superintendent in the performance of his duties under this Act.

(2) The Commissioner in Executive Council may appoint a registrar who shall perform such duties and functions as may be assigned to him.

**Absence of superintendent**

9. An assistant superintendent or regional superintendent, designated by the Commissioner in Executive Council, has all the powers, duties and functions of the superintendent when

- (a) the superintendent is ill or absent,
- (b) the superintendent is unable to act, or
- (c) the position is vacant.

**Appointment of teachers and staff**

10. The Executive Council Member shall, on the recommendation of the superintendent, employ teachers and other persons to fulfill the requirements of this Act.

**Medical examination**

11. The Executive Council Member may require a teacher or other employee under this Act to submit to a medical examination.

**Certificates of qualification**

12. The Commissioner in Executive Council shall determine the certificates of qualification, the grades and categories of such certificates, and the terms and conditions under which such certificates shall be issued to teachers and other persons to whom this Act applies and govern the granting of such certificates.

**Courses of study**

13.(1) The Commissioner in Executive Council may prescribe the courses of study to be used in schools and he may authorize the superintendent to make modifications and adaptations to such courses.

(2) Subject to subsection (1), the superintendent may, at the request of a school committee which has consulted with the principal, or where there is no school committee, at the request of a principal, authorize

- (a) the use of a course of study,
- (b) the adaptation or modification of a course of study, and
- (c) the use of a textbook or other instructional materials or apparatus

in a particular school for a specified period of time.

(3) The Executive Council Member may supply books and other instructional materials or apparatus to teachers, pupils or boards on such terms as he may determine.

**Powers of superintendent**

14.(1) The superintendent shall have general superintendence over all matters pertaining to the education of children in the Yukon and shall ensure that the provisions of this Act are carried out.

(2) With respect to a school established under Part 7 of this Act, the superintendent shall exercise all the powers and perform all the duties described in this Act except those which are, by the provisions of Part 7 of this Act, especially given to or imposed upon the board.

**Duties of superintendent**

15.(1) The superintendent shall

- (a) furnish copies of this Act and the regulations to school boards, school committees and teachers,
- (b) supervise all schools operated under this Act,
- (c) arrange, in respect of schools operated under this Act, for the examination and investigation of
  - (i) the progress of pupils in learning,
  - (ii) the order and discipline,
  - (iii) the system of instruction pursued,
  - (iv) the professional development of teachers,
  - (v) the mode of keeping school records, and
  - (vi) the condition of the buildings and premises,

and, with respect to these matters, make reports to the Executive Council Member,

- (d) prepare and submit an annual report to the Executive Council Member respecting the administration of this Act not later than three months after the end of the school year,

- (e) have charge of the issuing of certificates of qualification to teachers and other persons to whom this Act applies, and
- (f) perform such other duties as may be assigned to him by the Executive Council Member.

(2) The annual report made by the superintendent under this section shall be laid before the Legislative Assembly by the Executive Council Member within 15 days after the opening of the next regular session thereof or within five days if the Legislative Assembly is in session.

#### **Further powers of the superintendent**

##### **16. The superintendent may**

- (a) issue letters of permission for teaching pursuant to the regulations,
- (b) require the preparation and completion of reports from persons under his supervision,
- (c) designate school attendance areas throughout the Yukon, and
- (d) on the application of the parent of a child who has attained the age of 14 years, grant permission for the child to discontinue attendance at school where
  - (i) the child is not making or is not likely to make further progress in school, and
  - (ii) it is in the best interest of the child.

#### **Board of examiners**

17.(1) There shall be a board of examiners composed of the superintendent who shall be chairperson and two members appointed by the Commissioner in Executive Council.

(2) Each member of the board of examiners, other than the chairperson, shall hold office during pleasure for a term of three years and shall be paid such remuneration as may be determined by the Commissioner in Executive Council.

(3) The board of examiners may appoint any examiners and assistants as required for the purposes of this Act.

#### **Examinations**

18.(1) The board of examiners shall conduct examinations as directed by the Executive Council Member and shall report thereon to the Executive Council Member.

(2) The board of examiners shall, in accordance with the regulations, at the request of an examination candidate or the parent of a candidate, review or cause to be reviewed the results of any examination conducted by the board.

#### **Duties of regional superintendent**

##### **19.(1) A regional superintendent shall**

- (a) assist the superintendent in carrying out the provisions of this Act,
- (b) assist and advise school committees in the performance of their duties under this Act,
- (c) furnish members of school committees and teachers with information respecting this Act,

- (d) prepare a report on the operation of any school in his region as required by the superintendent or as requested by a school committee of a school,
- (e) submit a copy of any report prepared at the request of a school committee pursuant to paragraph (d) to the superintendent,
- (f) make a written evaluation of the work of each teacher in his region who is on probationary appointment not less than once each year, and each other teacher in his region not less than once in every three years,
- (g) make a written evaluation of the work of
  - (i) any teacher in the region with respect to whom the superintendent or a school committee requests a report, and
  - (ii) any teacher in the region who, on or before March 31 in that school year, requests that a report be made with respect to himself,
- (h) submit any reports made by him pursuant to paragraphs (f) and (g) to the superintendent and send one copy to the teacher in respect of whom the report was made,
- (i) discuss with a school committee any report made by him at the request of the school committee pursuant to paragraph (d) or clause (g)(i),
- (j) attend at least one meeting of each school committee in his region in each school year;
- (k) investigate and report upon the conduct of any pupil when requested to do so by the superintendent,
- (l) discuss with a school committee alterations and additions to the physical facilities of the school,
- (m) perform such other duties as may be assigned to him by the superintendent, and
- (n) subject to any instructions of the superintendent,
  - (i) provide leadership in evaluating and improving the educational program in a region,
  - (ii) exercise general supervision over the schools in his region and visit them as frequently as possible but not less than twice in each school year, and
  - (iii) assign teachers to their respective schools.

(2) The regional superintendent shall discuss with the principal and the school committee, where there is a school committee, how funds allocated to the school may be spent.

(3) The regional superintendent shall discuss with the principal and the school committee, where there is a school committee, the initiation and application of local educational policies.

#### **Appointment of principals and vice-principals**

20.(1) The superintendent or a board shall have the authority to appoint the principal of a school.

(2) The principal of a school shall be a teacher.

(3) A teacher appointed to be the principal of a school is on probation as a principal for two years from the date of his appointment as a principal.

(4) The appointment of a principal on probation may be terminated by the superintendent or the board by giving him not less than one month's notice in writing.

(5) If a principal on probation does not receive notice in writing from the superintendent or the board of the termination of his appointment prior to March 31 of the second year of his appointment as a principal, his appointment shall be a continuing one.

(6) Where a teacher appointed as a principal pursuant to this section was, immediately before his appointment as a principal, employed as a teacher on a continuing appointment and his appointment as a principal is terminated pursuant to subsection (4), he is entitled to be re-employed as a teacher following the termination of his appointment as a principal.

(7) The superintendent or a board shall have the authority to appoint a vice-principal of a school.

(8) The provisions of subsections 20(3) to (6) shall apply mutatis mutandis to a teacher who is appointed as a vice-principal.

### **Duties of principal**

**21.(1)** A principal shall, subject to any instructions of the superintendent or a regional superintendent

- (a) have charge of the organization, administration and supervision of the school, including supervision over
  - (i) the classification and programming of pupils,
  - (ii) the time-tables of the teachers,
  - (iii) the method of instruction and general discipline pursued in all grades,
  - (iv) the maintenance of school records,
  - (v) the conduct of pupils on school premises during curricular and extra-curricular activities sponsored or organized by the school, and
  - (vi) the conduct of pupils during curricular and extra-curricular activities sponsored or organized by the school but conducted outside of school premises,
- (b) have charge of the supervision and direction of all staff assigned to the school,
- (c) have charge of the supervision and direction all persons who volunteer to serve in the school without remuneration,
- (d) in accordance with directions given to him by the superintendent or regional superintendent,
  - (i) once each year make a written evaluation of the work of each teacher under his supervision holding a probationary appointment, and
  - (ii) make a written evaluation of the work of any teacher under his supervision in respect of whom the superintendent or a regional superintendent requests an evaluation,
- (e) ensure that each teacher is in his classroom or on the school premises 15 minutes immediately preceding the commencement of instruction in each school day,

- (f) report promptly to the regional superintendent the apparent outbreak of any contagious or infectious disease in the school, or any unsanitary condition of the school building or surroundings,
- (g) ensure the proper care of school buildings, premises and equipment by all persons using them,
- (h) be responsible for keeping the school buildings and grounds clean and in fit condition,
- (i) report to the regional superintendent any repairs to the building or equipment which are required,
- (j) requisition all necessary materials, supplies and equipment for the school and arrange for their proper distribution,
- (k) be responsible for and account for all materials, supplies and equipment provided for use in the school,
- (l) maintain any records and complete any returns and forms required by the superintendent,
- (m) verify by affidavit any return made by him when required to do so by the superintendent,
- (n) notify the superintendent of all absences of the staff of the school,
- (o) assign teaching duties to the teachers in the school,
- (p) perform such teaching duties as may be required of him in the school, and
- (q) perform such other duties as may be required of him by the superintendent or regional superintendent.

(2) Where a principal makes a written evaluation of a teacher pursuant to paragraph (1)(d), he shall send the original of the report to the regional superintendent, furnish a copy to the teacher and retain a copy until the end of the school year, at which time he shall transmit that copy to the regional superintendent.

### **School rules**

22.(1) The principal of a school shall make rules not inconsistent with this Act governing the conduct of the staff and pupils.

(2) Where there is a school committee, a principal shall consult with the school committee prior to making rules governing the conduct of the pupils.

### **Absence of principal**

23. A principal of a school may, with the approval of the regional superintendent, authorize a member of the staff to perform, in the absence of the principal, any of the duties, powers and functions that may be or are required to be performed or exercised by the principal under this Act.

### **Discussion of spending and policies**

24.(1) A principal shall discuss with the school committee, where there is a school committee, and the regional superintendent how funds allocated to the school may be spent.

(2) A principal shall discuss with the school committee, where there is a school committee, and the regional superintendent the initiation and application of local educational policies.

**Punishment of pupils**

25. A principal may, in accordance with the regulations, administer punishment to pupils.

## PART 2 PUPILS

**Optional attendance**

26.(1) Any child who attains the age of five years and eight months on or before September 1 in any year may attend school.

(2) A child who may attend school pursuant to subsection (1) but is not required to attend school pursuant to section 28 is only entitled to attend school if he is enrolled in a school on or before September 30 of the year referred to in subsection (1).

**Right of former pupils**

27. A child who has attained the age of five years and has previously been legally enrolled in a publicly supported school shall be admitted to the appropriate grade, as determined by the superintendent, whenever he presents himself for enrolment.

**Compulsory attendance**

28.(1) Except as otherwise provided in this Act,

- (a) every child who attains the age of six years and eight months on or before September 1 in any year shall attend school on every school day from the first school day in September in that year until the last school day in June in the year in which he attains the age of 16 years, and
- (b) every child who attains the age of six years and eight months after the first day of September in any year shall attend school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of 16 years.

(2) A child is not required to attend school where

- (a) the child is unable to attend school by reason of illness or other unavoidable cause,
- (b) the child is excluded from attendance at school under any Act,
- (c) in the opinion of the superintendent, the child is receiving satisfactory instruction at home or elsewhere,
- (d) the child is absent on a day regarded as a holy day by the church or religious denomination to which he belongs,
- (e) the child's absence is authorized by regulation,
- (f) the child is permitted, by the superintendent, to discontinue attendance pursuant to paragraph 16(d),
- (g) the child is suspended pursuant to section 38, or
- (h) a child, at the reasonable request of a parent, is permitted by the principal to be temporarily absent from school.



(3) A parent of a child who is required pursuant to this Act to attend school, who neglects or refuses to cause his child to attend school, is, unless the child is legally excused from attendance, guilty of an offence and is liable on summary conviction to a fine of not more than \$25.

(4) The justice may, instead of imposing a fine, require the person convicted of an offence to give a bond or other security conditioned that the person should cause the child to attend school as required by this Act, and the justice may order such person to cause the child to attend school as required by this Act.

(5) A person who fails to cause a child to attend school when required by a justice pursuant to subsection (4), commits an offence and is liable on summary conviction to a fine of not more than \$250 or to imprisonment for a term not exceeding one month, or to both fine and imprisonment, and each day's continuance of such failure or neglect shall constitute a separate offence.

(6) A child who is required to attend school pursuant to this Act, who is habitually absent from school, without being legally excused, commits an offence.

(7) In prosecutions under this section, a certificate as to the attendance or non-attendance at school of any child, signed or purporting to be signed by the principal of the school, is prima facie evidence of the facts stated therein without any proof of the signature or appointment of the principal.

(8) Where a person is charged under this section in respect of a child who is alleged to be of compulsory school age and the child appears to the justice to be of compulsory school age, the child shall for the purposes of the prosecution be deemed to be of compulsory school age unless the contrary is proved.

### **Enforcement**

29. The Commissioner in Executive Council may appoint school attendance counsellors who shall, under the direction of a regional superintendent and subject to the Act, enforce compulsory school attendance and perform such other duties as may be assigned by the superintendent.

### **Designation of schools**

30. Except as authorized by the superintendent, pupils shall attend the designated school in the attendance area within which they reside.

### **Correspondence courses**

31. The Executive Council Member may provide correspondence courses of instruction.

### **Duties of pupils**

32. It shall be the duty of every pupil to

- (a) observe the rules of the school he attends,
- (b) carry out such learning activities as may be required by his teachers,
- (c) diligently pursue the courses of instruction and carry out such activities as may be required of him in class or at any school function whether in or outside school,

- (d) regularly attend school as may be required by this Act,
- (e) refrain from damaging or mutilating any school property,
- (f) present himself punctually at each session of school clothed appropriately in keeping with the custom of the school, and
- (g) return any school books or apparatus on loan to him when required by his teacher or principal.

**Damage to school property**

33. Where any pupil wilfully mutilates, destroys, or without permission removes any school property, the parent of such pupil shall be liable for damages.

**Religious instruction and patriotic exercises**

34.(1) Religious instruction may be given to children in school during the first half hour of each school day or during such other period as the Commissioner in Executive Council may prescribe.

(2) Where religious instruction is given in a Yukon school pursuant to subsection (1), any child attending that school may, with the written approval of his parent, leave the class during the time that such religious instruction is given.

(3) No pupil shall be required to participate in any patriotic exercise to which his parent has objected in writing.

**School health**

35.(1) The Commissioner in Executive Council shall appoint a school medical officer for the Yukon.

(2) No person shall be appointed as school medical officer unless he is a duly licensed medical practitioner.

(3) The school medical officer may from time to time appoint other persons to perform such duties in respect of the health inspection of pupils and schools as he may consider necessary or expedient.

(4) The school medical officer shall from time to time make or cause to be made examinations as to the general health of the pupils attending school.

(5) The school medical officer shall carefully examine or cause to be examined the school buildings and surroundings and report to the superintendent the result of his examination together with any recommendations he may wish to make.

(6) Where the school medical officer considers that the condition of the health of any pupil is a danger to the health of the other pupils attending school, he shall report the matter to the superintendent.

(7) The superintendent shall remove from school any pupil whose condition of health is reported by the school medical officer to be dangerous to the health of other pupils, and the pupil shall not be permitted to return to the school until his condition is no longer a danger to the other pupils.

(8) Where, pursuant to subsection (5), the school medical officer recommends that a school be closed, the superintendent shall forthwith transmit the recommendation to the Executive Council Member who shall close the school pursuant to section 5 until the conditions requiring the closure have been remedied.

### **Provision of transport**

**36.(1)** In this section, “home” means the home or other residence designated by the Executive Council Member as the home of the pupil for the purpose of this section.

(2) Where a pupil's home is more than two miles by the nearest passable road from the designated school he attends, the Executive Council Member shall provide transportation for the pupil to and from the school and the pupil's home, an allowance in lieu of transportation, accommodation or an allowance in lieu thereof, or provide education by correspondence.

(3) Where a pupil's home is less than two miles by the nearest passable road from the designated school the pupil attends, the Executive Council Member may, subject to the prescribed fee and any conditions imposed by the regulations, provide transportation for the pupil to and from the school and the pupil's home.

(4) Where there are special circumstances related to the extreme youth or physical condition of the pupil, the Executive Council Member may provide transportation for a pupil whose home is less than two miles by the nearest passable road from the designated school he attends, or an allowance in lieu of transportation.

### **Transportation allowances**

**37.** Where a pupil whose home is in the Yukon is compelled and does live away from home in order to attend a Yukon school, the Executive Council Member shall provide accommodation or an allowance in lieu thereof in respect of the pupil.

### **Pupil suspension**

**38.** Where a pupil

- (a) is persistently truant,
- (b) habitually neglects his duties,
- (c) habitually uses profane or improper language,
- (d) persistently disobeys school rules,
- (e) wilfully disobeys the principal or a teacher,
- (f) behaves in open opposition to the principal or a teacher or his behaviour has a harmful effect on the character or person of other pupils, or
- (g) is addicted to any vice or practice likely to injuriously affect the character or person of other pupils,

the principal may suspend the pupil.

### **Report of suspension**

**39.** Where a principal suspends a pupil pursuant to section 38, he shall forthwith make a report in writing to his regional superintendent stating the reasons for the suspension, and transmit copies of the report to the parent of the pupil and, where there is a school committee for the school, to the school committee.

**Appeal of suspension**

40. The parent of a pupil who has been suspended, or where there is no parent, the pupil may, within ten days of the suspension or at any time during the suspension appeal by notice in writing to the regional superintendent.

**Time for hearing appeal of suspension**

41. On receipt of the notice of appeal mentioned in section 40, the regional superintendent shall forthwith arrange to hear the appeal within two weeks and

- (a) where there is a school committee, the provisions of sections 42 to 47 shall apply, and
- (b) where there is no school committee, the provisions of sections 48 to 50 shall apply.

**Appeal of suspension to school committee**

42. Where there is a school committee, the regional superintendent shall sit together with the school committee and consider the matter and shall give the principal, the pupil and his parent an opportunity to make representations, orally or in writing, either personally or by lawyer or agent, but the committee and the regional superintendent shall not be bound by the rules of evidence applicable to the courts.

**Result of appeal to school committee**

43. Where the regional superintendent and the school committee agree, they shall make a joint recommendation to the principal, who shall carry out the terms of the recommendation.

**Report to superintendent**

44. Where the regional superintendent and school committee do not agree on the recommendation to be made, the regional superintendent and the school committee shall transmit to the superintendent their respective recommendations.

**Investigation of suspension by superintendent**

45. On receipt of the recommendations mentioned in section 44, the superintendent shall investigate the matter and shall give the parties an opportunity to make representations orally or in writing, either personally or by lawyer or agent.

**Superintendent's decision on suspension**

46. After considering the matter, the superintendent shall render a decision in writing to all persons concerned in the matter, and his decision shall be final and the principal and the pupil shall be bound by the decision.

**Appeal of suspension to superintendent**

47. A pupil's parent or a principal may, within ten days of the receipt of the recommendation of the regional superintendent and the school committee pursuant to section 43, appeal the recommendation by notice in writing to the superintendent, and the provisions of sections 45 and 46 shall apply *mutatis mutandis*.

**Appeal of suspension without school committee**

48. Where there is no school committee, the regional superintendent shall consider the matter and shall give the pupil's parent and the principal an opportunity to make representations, orally or in writing, either personally or by lawyer or agent, but the regional superintendent shall not be bound by the rules of evidence applicable to the courts.

**Result of appeal of suspension**

49. After considering the matter, the regional superintendent shall make a recommendation to the principal who shall carry out the terms of the recommendation.

**Appeal of suspension to superintendent**

50. A pupil's parent or a principal may, within ten days of the receipt of the recommendation of the regional superintendent pursuant to section 49, appeal the recommendation by notice in writing to the superintendent, and the provisions of sections 45 and 46 shall apply *mutatis mutandis*.

**Appeal of suspension to school board**

51. Where there is a school board, the provisions of sections 39 to 50 in relation to a school committee shall apply to the school board *mutatis mutandis*.

**Pupil records**

52.(1) In this section,

“pupil” includes a former pupil;

“record” means a record maintained or retained in respect of a pupil by the principal of a school or the superintendent.

(2) Except as provided by this section, a record is privileged for the information and use of persons appointed pursuant to this Act and the principal and teachers of the school, and is not available to any other person.

(3) Except as provided by this section and subsection 28(5), a record is not admissible evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceedings, except to prove the establishment, maintenance, retention or transfer of the record, without the written permission of the parent of the pupil or, where the pupil has attained the age of 19 years, the written permission of the pupil.

(4) A pupil who has reached the age of 19 years is entitled to examine the record kept in respect of himself.

(5) Where a pupil has not attained the age of 19 years, the parent of such pupil is entitled to examine the record of that pupil.

(6) Where, in the opinion of a pupil who has attained the age of 19 years, or of the parent of a pupil who has not attained such age, information recorded upon the record of the pupil is

(a) inaccurately recorded, or

(b) not conducive to the improvement of instruction of the pupil,

the pupil or his parent, as the case may be, may in writing request the principal to correct the alleged inaccuracy in, or to remove the impugned information from such record.

(7) Where the principal refuses to comply with a request under subsection (6) and the pupil or parent who made the request does not agree with such refusal, the matter in disagreement may be referred by either party to the regional superintendent who shall forthwith submit the record and a statement of the disagreement to the superintendent.

(8) After affording the principal and the pupil or parent who made the request an opportunity to be heard, the superintendent shall decide the matter and communicate the decision to the parties concerned, and his decision is binding upon all parties.

(9) Where a written request is made by a pupil or his parent, the principal, the regional superintendent or the superintendent may use the record of the pupil to assist in the preparation of a report for the pupil in respect of an application for further education or for employment.

(10) No action shall be brought against any person in respect of the contents of a record.

(11) Except where the record has been introduced in evidence as provided in this section, no person shall be required in any trial or other proceeding to give evidence in respect of the content of a record.

(12) Except as permitted under this section, every person shall preserve secrecy in respect of the contents of a record which comes to his knowledge in the course of his duties or employment, and no such person shall communicate any such knowledge to any other person except

- (a) as may be required in the performance of his duties,
- (b) with the written consent of the parent of the pupil where the pupil has not attained the age of 19 years, or
- (c) with the written consent of the pupil, where the pupil has attained the age of 19 years.

## PART 3

### SCHOOL COMMITTEES

#### **Establishment of school committees**

53.(1) Where the Executive Council Member receives a petition in the prescribed form signed by not less than ten persons living in the school attendance area of a Yukon school who would, if a school committee were established, be entitled to vote at an election for the members of the school committee, the Commissioner in Executive Council shall, by order, establish a school committee for that Yukon school.

(2) The number of members of a school committee shall be determined in accordance with the regulations.

#### **Initial procedure**

54. Where the Commissioner in Executive Council has established a school committee pursuant to subsection 53(1), he shall appoint a person who shall

- (a) arrange for a public meeting to be held within the school attendance area,

- (b) not less than ten days prior to the date of the meeting post in four conspicuous places within the school attendance area or advertise in the community a notice of the public meeting,
- (c) preside over the meeting and explain the functions, duties and powers of the school committee,
- (d) at the meeting explain the nomination and election procedures to be followed in the election of the first school committee,
- (e) accept nominations for membership on the first school committee at the meeting, or for a period of five days immediately following the meeting,
- (f) if the number of nominations for membership on the school committee does not exceed the number of members to be elected pursuant to subsection 53(2), declare the persons nominated to be elected,
- (g) arrange for an election meeting to be held not less than 21 days after the date of the meeting mentioned in paragraph (a) within the school attendance area,
- (h) not less than ten days prior to the date of the election meeting post in four conspicuous places within the school attendance area or advertise in the community,
  - (i) a notice of the election meeting, and
  - (ii) a list of the candidates, and
- (i) preside over the election meeting, act as returning officer and report the results of the election to the Executive Council Member.

### **Election of candidates**

55.(1) Every nomination of a candidate for election as a member of a school committee shall be signed by the candidate and at least two eligible voters of the school attendance area, and delivered to the person appointed to act as returning officer.

(2) A list of the candidates who have been nominated pursuant to subsection (1) shall be posted at the election meeting.

(3) Every person who is a Canadian citizen or landed immigrant pursuant to the Immigration Act (Canada), who has attained the age of 19 years and who has continuously resided in the attendance area for a period of 12 months immediately preceding the date of nomination, shall be eligible to become a member of a school committee.

(4) Every person who has attained the age of 19 years and who has continuously resided in the attendance area for a period of 12 months immediately preceding the date of the election shall be eligible to vote at an election of a school committee.

(5) The election of members of a school committee shall be by secret ballot.

(6) No teacher or other person employed in a school may be a member of the school committee of the school in which he is employed.

(7) Each committee member shall be elected to hold office for two years from the time of his election.

(8) Notwithstanding subsection (7), not less than half of the committee members elected at the first election of a school committee shall hold office for one year from the time of their election.

(9) The members who shall retire pursuant to subsection (8) shall be those members obtaining the least number of votes at the election and, in any case, where the number of votes is equal or candidates are chosen by acclamation, the members to retire shall be chosen by casting lots.

**Voting restrictions**

56.(1) Except as provided in subsection (2), a person who votes at an election or a by-election for the school committee of a school in the attendance area in which he resides is not entitled to vote at an election or by-election for a school committee of any other school within that attendance area.

(2) A parent who has children attending more than one school may vote at the election of the committee for each school at which he has a child attending.

**Chairperson**

57.(1) At their first meeting the members of a school committee shall designate one of the members to be chairperson of the committee.

(2) If the chairperson is unable to act by reason of absence or incapacity, the members shall choose one of their number to exercise the powers and functions of the chairperson.

**Quorum**

58.(1) A majority of the members of the committee constitutes a quorum.

(2) The chairperson shall vote on any matter coming before the committee, and in the case of an equality of votes, the question shall be deemed to have been defeated.

**Obligatory meetings**

59.(1) The committee shall meet not less than four times during the school year, and at least once every three months.

(2) The committee shall hold its first meeting within one month after the election meeting mentioned in paragraph 54(g) or subsection 66(1).

(3) Where the school committee has failed to meet for one year as provided by this section, the Commissioner in Executive Council may revoke the order establishing the school committee.

**Minutes**

60.(1) The chairperson shall keep or cause to be kept minutes of all meetings.

(2) The chairperson shall send a copy of the minutes of every meeting to the regional superintendent within 14 days of every meeting.



**Absence of members**

**61.** A person is not qualified to remain a member of a school committee if he is absent from two consecutive regular meetings of the committee, except by leave of the committee.

**Representative meetings**

**62.(1)** Each school committee shall choose a representative to attend meetings called by the superintendent pursuant to subsection (2).

(2) The superintendent shall convene a meeting of the representatives from each school committee at least once each school year and at the meeting the representatives may

- (a) discuss the superintendent's annual report,
- (b) advise generally on the operation of education programmes in the Yukon, and
- (c) consider and discuss any report, plans or proposals placed before them by the superintendent.

**Annual general meeting**

**63.(1)** A public annual general meeting in each school year shall be held in April or May of each year.

(2) The school committee shall fix the time and place of the public annual general meeting and give notice thereof by posting notices in four conspicuous places in the attendance area, or by advertising in the community.

**Chairperson of general meeting**

**64.** The chairperson of the school committee shall be the chairperson of the public annual general meeting, and in his absence, the school committee shall appoint one of its members to act as chairperson.

**Annual report of school committee**

**65.** At the public annual general meeting, the school committee shall present a report of its activities during the school year, and the meeting may pass resolutions for the guidance of the school committee.

**Election meetings**

**66.(1)** The election of members of the school committee shall be held at a meeting called by the outgoing chairperson of the school committee, and shall be held annually during the month of September or October.

(2) The school committee shall appoint a returning officer and scrutineer to carry out an election.

(3) Not less than 14 days notice of an election meeting shall be given by posting a notice of the meeting in four conspicuous places in the attendance area or by advertising in the community, and the notice shall call for nominations of candidates for membership on the school committee.

(4) Nominations may be accepted by the returning officer at any time prior to the time of an election.

(5) If the number of nominations for membership on the school committee does not exceed the number of members to be elected, the returning officer shall declare the persons nominated to be elected.

(6) An election shall be carried out in accordance with the provisions of section 55.

(7) A member of the committee is eligible to be re-elected.

(8) The returning officer and scrutineer shall be responsible for the issuing of ballots at an election meeting to persons eligible to vote.

(9) Immediately after the election the returning officer shall

- (a) examine the ballots and add up the votes polled for each candidate,
- (b) prepare a statement of election returns setting out the total number of votes received by each candidate,
- (c) publicly declare the candidates for the vacant offices having the highest number of votes to be duly elected, and
- (d) transmit the results of the election to the superintendent.

(10) When a tie occurs in the election the returning officer shall break the tie by casting lots.

(11) In any dispute respecting the conduct of an election, the decision of the returning officer shall be final.

### **By-elections**

67.(1) Where a vacancy occurs on a school committee, the school committee shall within one month call a meeting of the persons residing in the school attendance area for the purpose of holding a by-election to fill the vacancy.

(2) A by-election to fill a vacancy shall be conducted in the same manner as a regular election of members of a school committee.

### **Appointment to fill vacancy**

68. Where there is no candidate for the vacant office mentioned in subsection 67(1), or where for any other reason the vacant office is not filled by a by-election, the school committee may appoint a person to fill the vacancy or, where there is no quorum of the school committee, the superintendent may appoint a person to fill the vacancy.

### **Term of office in case of vacancy**

69. A person elected or appointed to fill the vacancy mentioned in subsection 67(1) shall serve for the balance of the term of office of the school committee to which he is elected or appointed.

**Oath of office**

**70.** Every person elected or appointed as a member of a school committee shall, before assuming office, take and subscribe to the prescribed oath before a person qualified to administer oaths.

**Duties and powers of school committees**

**71.(1)** A school committee may

- (a) advise the regional superintendent respecting the appointment of the principal of the school,
- (b) advise the regional superintendent on all educational matters affecting the school,
- (c) pursuant to section 43, make recommendations to the principal respecting the suspension of students,
- (d) pursuant to section 44, make recommendations to the superintendent respecting the suspension of students,
- (e) request the regional superintendent to evaluate the performance of a teacher in the school,
- (f) request the regional superintendent to prepare a report on the operation of the school,
- (g) discuss with the regional superintendent any report made by him pursuant to paragraph (e) or (f),
- (h) meet with the principal and the regional superintendent to discuss the annual reports of the principal and the superintendent,
- (i) in consultation with the principal, determine the disposition of the three non-instructional school days referred to in section 107,
- (j) approve the allocation of school days for extra-curricular activities,
- (k) after consultation with the principal, request the superintendent to authorize a course of study or modification of a course of study or a textbook or other instructional material or apparatus for a specified period of time,
- (l) advise the principal on the hours of pupil attendance and on the duration of any recesses or intermissions,
- (m) discuss with the principal and the regional superintendent alterations and additions to the physical facilities of the school,
- (n) discuss with the principal and the regional superintendent how funds allocated to the school may be spent,
- (o) discuss with the principal and the regional superintendent the initiation and application of local educational policies,
- (p) request the principal or the regional superintendent to attend a meeting of the committee,
- (q) request the superintendent to provide clerical assistance to the committee as required, and
- (r) make recommendations to the principal regarding student dress for the school.

(2) A school committee is not entitled to retain a copy of any report made by the regional superintendent pursuant to clause (1)(e)(i).

(3) A school committee may request the pupils of a school to select a representative from amongst their number and the school committee may request such representative to attend meetings of the school committee from time to time other than a meeting called to discuss a report made pursuant to paragraph (1)(e) or clause 19(1)(g)(i).

## PART 4 TEACHERS

### Duties of teachers

#### 72.(1) Every teacher shall

- (a) encourage his pupils in the pursuit of learning and teach them diligently and faithfully,
- (b) report on the progress and attendance of his pupils to the parents of his pupils in accordance with the regulations,
- (c) as required by the principal, maintain order and discipline while on duty in the school, on the playground and at school functions,
- (d) keep such registers and attendance records as may be required by the superintendent,
- (e) maintain records and complete returns and forms required by the superintendent,
- (f) observe the rules of the school to which he is assigned,
- (g) notify the principal of his absence from the school and the reason therefor,
- (h) verify by affidavit any return made by him when required to do so by the superintendent,
- (i) report promptly to the principal the apparent outbreak of any contagious or infectious disease in the school, or an unsanitary condition of the school building or surroundings,
- (j) admit to his classroom, for the purpose of observing tuition, the parent of a child enrolled in his class,
- (k) upon the direction of the superintendent, admit student teachers and their instructors to his classroom for the purpose of observing tuition and practising teaching, and without additional remuneration or salary render assistance to the student teachers, and submit reports on the teaching ability of the student teachers,
- (l) perform such other related duties as may be required by the principal, and
- (m) be entitled to examine any record maintained or retained in respect of him by the superintendent or the Public Service Commission in the presence of a personnel officer or any person appointed pursuant to subsection 8(1).

(2) Any registers or records kept pursuant to paragraph (1)(d) may be inspected at any time by the superintendent or by any person authorized by the superintendent.

### Certificate of qualification

73. Every teacher is required to hold a valid and subsisting certificate of qualification issued pursuant to the regulations.

**Material relevant to qualifications**

74. Where a teacher is employed pursuant to section 10, he shall furnish to the registrar all material relevant to his qualifications and experience and shall provide such evidence in relation thereto as the registrar may require.

**Issue of certificate**

75.(1) On receipt of the material mentioned in section 74, the registrar shall transmit the material to the superintendent for a decision in respect of the grade of certificate of qualification to be issued to the teacher.

(2) The superintendent shall evaluate the material supplied to him and, where the teacher is eligible, issue a certificate of qualification to the teacher and specify the grade of certificate to be issued.

**Teacher Qualification Board**

76.(1) Where the superintendent issues a certificate of qualification to a teacher, the registrar shall forthwith refer the material mentioned in section 74 to the Teacher Qualification Board for a decision in respect of the category of certificate of qualification to be assigned to the teacher.

(2) Pending the decision of the Teacher Qualification Board, the registrar shall provisionally assign a category of certificate of qualification to the teacher, and the teacher shall be paid in accordance with the provisionally assigned category of certificate of qualification until the matter has otherwise been determined by the Teacher Qualification Board.

**Notice of resignation**

77.(1) A teacher who wishes to resign shall give the superintendent or the board not less than 30 days notice in writing.

(2) Notice of resignation may not be given to the superintendent or the board by a teacher between June 1 and September 1 of any year.

(3) Notwithstanding subsection (2), the superintendent or board may because of special circumstances permit a teacher who submits a written request to resign between June 1 and September 1 of any year.

**PROBATION**

78.(1) A teacher employed pursuant to this Act is on probation for two years from the date of commencement of his employment.

(2) The employment of a teacher on probation may be terminated by

- (a) the Executive Council Member, on the recommendation of the superintendent, or
- (b) the board

by giving him not less than 30 days notice in writing.

(3) If a teacher on probation does not receive notice in writing from the Executive Council Member or the board of the termination of his employment prior to May 31 of the second school year of his employment, his appointment shall be a continuing one.

**Rights of terminated probationers**

79.(1) A teacher on probation whose employment has been terminated pursuant to subsection 78(2), and who moves from his place of employment in the Yukon to another location shall, subject to this section, be paid his moving expenses in accordance with the employer's policy on moving expenses.

(2) In order to qualify for the payment of moving expenses pursuant to this section, a teacher

- (a) must have received moving expenses upon initial hire,
- (b) must move from his place of employment within the Yukon to his new location within two months of his termination, and
- (c) must furnish satisfactory evidence of the moving expenses incurred.

(3) Moving expenses paid pursuant to this section shall not be payable in respect of a distance greater than the distance from the teacher's original point of hire to his place of employment in the Yukon.

(4) Where moving expenses are paid to a teacher pursuant to this section, no further moving expenses shall be paid to the teacher.

(5) Where a teacher is moving to another location to take up employment and his moving expenses are payable by his new employer, no moving expenses shall be paid to the teacher pursuant to this section.

**Suspension**

80.(1) A regional superintendent or a board may suspend a teacher

- (a) for misconduct, neglect of duties, or refusal or neglect to obey a lawful order,
- (b) where the teacher is incapable of performing his duties,
- (c) where the teacher is unsatisfactory in performing his duties, or
- (d) where the teacher has been charged with a criminal offence and the circumstances thereby created render it inadvisable for him to continue his duties.

(2) Where a regional superintendent or a board suspends a teacher pursuant to subsection (1), the teacher and the superintendent shall forthwith be notified in writing of the suspension and the reason therefor.

(3) An employee in the bargaining unit who is suspended pursuant to subsection (1) may request an interview with the regional superintendent and may be accompanied by his bargaining agent.

(4) A regional superintendent or a board who suspends a teacher may make a recommendation for dismissal.

**Appeal of suspension to superintendent**

81.(1) A teacher who is suspended by a regional superintendent or a board pursuant to subsection 80(1) may appeal the suspension to the superintendent by written notice not later than two weeks from the date of suspension.

(2) If no appeal is submitted within two weeks with respect to the suspension imposed pursuant to subsection 80(1), the decision of the regional superintendent or the board shall be final and binding.

(3) Where a recommendation for dismissal has been made in conjunction with a suspension and where no appeal has been made pursuant to subsection (1), the superintendent may recommend to the Executive Council Member that the teacher be dismissed.

### **Hearing of appeal of suspension**

**82.(1)** Where the superintendent receives an appeal pursuant to subsection 81(1), he shall investigate the matter and give the teacher an opportunity, within two weeks of receipt of the appeal, to make representations orally or in writing either personally, by lawyer or agent, or with his consent by his bargaining agent.

(2) Where the superintendent after carrying out the provisions of subsection (1) is satisfied that the suspension of the teacher was warranted, he may confirm or modify the order of suspension and, where the suspension was accompanied by a recommendation for dismissal, the superintendent may recommend to the Executive Council Member that the teacher be dismissed.

(3) Where the superintendent is satisfied that the reason for the suspension is unwarranted, he shall

- (a) terminate or revoke the order of suspension,
- (b) reprimand the teacher in writing, or
- (c) take other appropriate action.

### **Time limit for decision on appeal of suspension**

**83.** Not later than two weeks after carrying out the provisions of subsection 82(1), the superintendent shall notify the teacher and the regional superintendent or the board in writing of his decision.

### **Effect of superintendent's decision to dismiss**

**84.** Where the superintendent recommends the dismissal of a teacher to the Executive Council Member or the board, the Executive Council Member or the board shall forthwith dismiss the teacher and the teacher thereupon ceases to be an employee with effect from the date fixed for dismissal.

### **Appeal of suspension or dismissal to adjudicator**

**85.(1)** A teacher who is an employee within the meaning of section 118 may, within two weeks of receipt of the decision of the superintendent, appeal the decision to an adjudicator appointed by the chairperson of the Yukon Teachers Staff Relations Board and the decision of the adjudicator thereon shall be final and binding.

(2) Where an appeal is made pursuant to subsection (1), the provisions of sections 182 to 196 shall apply.

### **Adjudicator's decision**

**86.** On receipt of the decision of the adjudicator, the Executive Council Member shall take any action necessary to implement the decision.

**Salary during suspension**

**87.(1)** A teacher shall not be entitled to be paid his salary for the period for which he is under suspension, but the Executive Council Member or the board may make an allowance not exceeding one-half of the amount of his salary to a teacher who has been suspended with a recommendation for dismissal.

(2) Where the original order of suspension is revoked, the teacher shall be entitled to be paid his full salary during the period of suspension, less the amount of any allowance which may have been paid to him during that period.

**Acquittal or conviction of criminal charge**

**88.(1)** Where a teacher suspended pursuant to paragraph 80(1)(d) is acquitted of the charge in respect of which he was suspended, the superintendent or the board shall reinstate him after the expiry of the appeal period or the expiry of the period for appeal from the last court from which the appeal from the acquittal is taken and in which he is acquitted, whichever is the later.

(2) Where the teacher suspended pursuant to paragraph 80(1)(d) is convicted of the charge in respect of which he was suspended, the Executive Council Member or the board may dismiss him after the expiry of the appeal period or after the expiry of the period for appealing from the last court to which appeal from conviction is taken and in which he is convicted, whichever is the later.

**Extensions of time**

**89.** Notwithstanding sections 81, 83 and 85, time limits regulating the processing of decisions and appeal may be extended by mutual agreement between the superintendent and the teacher.

**Abandonment of position**

**90.** Where a teacher is absent from duty without leave for a period in excess of five consecutive instructional days, he may by notice in writing be declared by the superintendent or a board to have abandoned his position and thereupon the teacher ceases to be an employee.

**Lay-off**

**91.(1)** At the end of any school year, the superintendent or a board may lay-off a teacher where

- (a) there is a decrease in the enrolment of pupils,
- (b) a school, classroom or instructional department is closed and instruction therein is discontinued, or
- (c) an instructional programme is discontinued.

(2) A teacher shall be entitled to not less than 60 days notice of a lay-off.

**Effect of and procedure for lay-off**

**92.(1)** A teacher who is laid off in accordance with subsection 91(1), ceases to be an employee.

(2) The superintendent or a board may, without competition, re-employ a lay-off as a teacher.



(3) A lay-off is eligible, for a period of six months or such longer period not exceeding one year after he was laid off as the superintendent or the board may determine, to be re-employed as a teacher.

(4) A lay-off shall be considered for re-employment as a teacher in priority to all other qualified persons and in priority to all other persons who became lay-offs at an earlier time.

(5) Where teachers are to be laid off and there are other teachers who hold similar qualifications, the superintendent or a board shall, after considering such material and conducting such examinations, tests, interviews and investigations as are considered necessary, list the teachers in order of their merit, commencing with the teacher with the greatest merit and the teachers shall be laid off in order beginning with the teacher with the least merit.

(6) Where two or more teachers were laid off at the same time and the superintendent or the board intends to make an appointment from amongst those lay-offs, the superintendent or the board shall first consider for appointment the teacher with the greatest merit according to the list mentioned in subsection (5).

(7) A person ceases to be a lay-off if

- (a) he is re-employed as a teacher,
- (b) he is not re-employed as a teacher within a year from the date on which he became a lay-off, or
- (c) he declines re-employment as a teacher.

#### **Rights of lay-off**

**93.** A lay-off who has been laid off pursuant to subsection 91(1), and who moves from his place of employment in the Yukon to another location shall, subject to this section, be paid his moving expenses in accordance with the employer's policy on moving expenses upon furnishing satisfactory evidence of the expenses incurred.

#### **Limitation on rights of lay-off**

**94.(1)** In order to qualify for the payment of moving expenses pursuant to section 93, a lay-off

- (a) must have received moving expenses upon initial hire,
- (b) must move from his place of employment within the Yukon to his new location within two months of his lay-off, and
- (c) must furnish satisfactory evidence of the moving expenses incurred.

(2) Moving expenses paid pursuant to section 93 shall not be payable in respect of a distance greater than the distance from the lay-off's original point of hire to his place of employment in the Yukon.

(3) Where moving expenses are paid pursuant to section 93, no further moving expenses shall be paid to the lay-off.

(4) Where a teacher is moving to another location to take up employment and his moving expenses are payable by his new employer, no moving expenses shall be paid to the teacher pursuant to this section.

**Retirement**

**95.** No teacher shall be engaged or regularly employed in any school in the Yukon beyond the end of the school year during which he attains the prescribed obligatory retirement age.

**Political leave**

**96.(1)** A teacher shall not become a candidate for election as a member of the House of Commons or the Legislative Assembly without first obtaining leave of absence, without pay, pursuant to subsection (2).

(2) The Executive Council Member shall, where operational requirements permit, grant leave of absence without pay to a teacher

- (a) to seek nomination as a candidate, or
- (b) to be a candidate for election

as a member of the House of Commons or the Legislative Assembly for a period ending on the day on which the results of the elections are officially declared or on an earlier day as may be requested by the teacher if he has ceased to be a candidate.

(3) A teacher who becomes a candidate for election as a member of the House of Commons or the Legislative Assembly without having been granted leave of absence without pay by the Executive Council Member pursuant to subsection (2) shall be dismissed.

(4) A teacher becomes a candidate pursuant to subsection (3) when nomination papers nominating him as a candidate are filed with the returning officer.

**Successful candidates**

**97.** A teacher who is elected as a member of the House of Commons or the Legislative Assembly shall be deemed to have resigned his appointment as a teacher from the date of his election.

**Temporary employment**

**98.(1)** The Commissioner in Executive Council may make regulations providing for the selection, appointment, conditions of employment and remuneration of teachers and other persons performing duties of a casual, part-time or seasonal nature.

(2) A person who is employed for a specified period pursuant to subsection (1) ceases to be employed at the expiration of that period.

**Teacher Qualification Board**

**99.** In sections 100 to 104, "board" means the Teacher Qualification Board.

**Composition and conduct of the board**

**100.(1)** There shall be a board consisting of a chairperson and two members to be appointed by the Commissioner in Executive Council pursuant to this section.

(2) The superintendent shall be chairperson of the board.

(3) One member of the board shall be appointed by the Commissioner in Executive Council on the recommendation of the executive of the association representing the majority of the teachers and the other member shall be appointed from outside the public service of the Yukon.

(4) A teacher is not eligible for appointment as a member of the board.

(5) Each member of the board, other than the chairperson, shall hold office during pleasure for a term of three years and shall be paid such remuneration as may be determined by the Commissioner in Executive Council.

(6) Meetings of the board shall be held at the call of the chairperson.

(7) In the absence of a member or his inability to act, or in the case of a vacancy in the office, the remaining members shall exercise the powers of the board.

(8) The Commissioner in Executive Council may appoint, in the same manner as the original appointment, a person to act in the stead of any member of the board who is unable, at any time, to perform the duties of his office.

(9) The board may make rules governing the conduct of its own procedure.

(10) Two members of the board shall constitute a quorum.

#### **Power of board**

**101.(1)** The board shall have the jurisdiction to decide the category of certificate of qualification to be assigned to any teacher.

(2) In deciding the category of certificate of qualification to be assigned to a teacher, the board shall decide the matter in accordance with the regulations.

(3) The board shall decide the category of certificate of qualification of a teacher and the registrar shall assign a category in accordance with the decision of the board.

(4) Where a teacher has been required by the board to submit evidence or material relevant to the matter before the board and fails, refuses or neglects to submit the evidence or material required, the board may proceed to decide the matter on the evidence before it.

(5) Notwithstanding any other provision of this Act, where the board is of the opinion that any application is frivolous or vexatious it may summarily dismiss the application.

(6) The decision of the board in respect of the category of certificate to be assigned to a teacher shall be final and binding.

(7) Except as otherwise provided in this Act, a teacher shall be paid in accordance with the category of certificate of qualification assigned to him pursuant to this section.

**Consideration of evidence and decision of the board**

102.(1) On receipt of a reference pursuant to subsection 76(1), the board shall consider the category of certificate of qualification to be assigned to the teacher and may require the registrar or the teacher to submit additional evidence or material.

(2) Where the board determines that a category of certificate of qualification be assigned to the teacher which is different from the category provisionally assigned to the teacher by the registrar, the teacher's salary shall be adjusted in accordance with the salary applicable in respect of the category determined by the board from the time of the teacher's employment.

**Re-application for increased qualifications**

103.(1) Prior to November 15 in any school year, a teacher may apply in writing to the registrar for a review of the category of certificate of qualification assigned to him on the grounds that he has qualified for a higher category of certificate since the last determination of the board in respect of his category of certificate.

(2) The applicant shall furnish to the registrar with his application all material and evidence relevant to his application.

(3) The registrar may require the applicant to submit additional evidence or material.

(4) The registrar shall forthwith refer the application together with the evidence and material to the board for a decision.

(5) As soon as possible in the school year in which the application was made, the board shall consider the matter and may request the registrar or the teacher to submit further evidence or material.

(6) The board may confirm or vary the category of certificate assigned to the teacher, and its decision on the matter shall be final and binding.

(7) Where the board decides that the category of certificate of qualification of the teacher be varied, the superintendent shall amend the certificate held by the teacher in accordance with the decision of the board.

**Salary adjustment on variation**

104.(1) Except as provided by section 103, where the board varies the category of certificate of qualification of a teacher, the salary of the teacher shall be governed by the provisions of subsections (2) and (3).

(2) If the salary applicable to the teacher pursuant to the new category is higher than the salary of the teacher at the time of the decision of the board, the teacher's salary shall be adjusted accordingly from the commencement of the school year in which the new category is assigned.

(3) If the salary applicable to the teacher pursuant to the new category is lower than the salary being paid to the teacher at the time of the decision of the board, the teacher's salary shall not be diminished and shall continue to be paid to him until the salary applicable to the teacher pursuant to the new category exceeds the salary being paid to him at the time of the decision.

## PART 5

### GENERAL PROVISIONS

#### School holidays

**105.**(1) The following days shall be school holidays:

- (a) every Saturday;
- (b) every Sunday;
- (c) New Year's Day;
- (d) Good Friday;
- (e) Easter Monday;
- (f) Victoria Day (Queen's Birthday);
- (g) Discovery Day;
- (h) Labour Day;
- (i) Thanksgiving Day;
- (j) Remembrance Day;
- (k) Christmas Day;
- (l) any day proclaimed a holiday by the Governor General or the Commissioner.

(2) Instruction in a school year shall commence on the date fixed in section 109.

(3) There shall be a spring vacation consisting of five consecutive days, inclusive of any holiday pursuant to subsection (1), commencing on the Monday of the third full week in March.

(4) There shall be a Christmas vacation, inclusive of any holiday pursuant to subsection (1), which shall commence and end on the dates fixed in section 109.

(5) Instruction shall terminate in a school year on the date fixed by the Commissioner in Executive Council pursuant to section 107.

(6) The superintendent may at the request of the school committee of the Old Crow School substitute vacations and holidays in some other part of the school year for part of the time allowed for holidays and vacations in this Part but not so as to diminish the number of instructional days in a school year pursuant to subsection 106(2).

(7) A request pursuant to subsection (6) must be submitted not later than April 1 in respect of the ensuing school year.

#### School days

**106.**(1) There shall be 190 school days in a school year.

(2) One hundred and eighty-seven school days shall be instructional days, during which days all pupils shall attend school for instruction.

(3) The principal of each school shall, on the advice of the board or the school committee, determine the disposition of the three non-instructional school days.

(4) Where no school committee exists in respect of a Yukon school, the principal, with the approval of the regional superintendent, shall determine the disposition of the three non-instructional school days.

#### **Content of the school calendar**

**107.** The Executive Council Member shall on or before May 1 in each year issue a school calendar setting forth, in respect of the ensuing school year

- (a) the date of commencement of instruction in the school year,
- (b) the dates of the spring vacation and Christmas vacation,
- (c) the number of school days and holidays other than Saturdays and Sundays in each month in the school year,
- (d) the date when instruction shall terminate in the school year, and
- (e) any additional information which is required for the purpose of this Act.

#### **Changes to school term and holidays**

**108.** Notwithstanding sections 105, 107 and 109, the Commissioner in Executive Council may by regulation fix a date for the commencement or termination of the school year, or any vacation, other than the date otherwise fixed under this Act.

#### **School term and Christmas holiday commencement dates**

**109.**(1) Where Christmas falls on a Sunday,

- (a) the first school term shall commence on September 1,
- (b) the Christmas vacation shall commence on December 17, and
- (c) the second school term shall commence on January 3.

(2) Where Christmas falls on a Monday,

- (a) the first school term shall commence on September 5,
- (b) the Christmas vacation shall commence on December 16, and
- (c) the second school term shall commence on January 2.

(3) Where Christmas falls on a Tuesday,

- (a) the first school term shall commence on September 4,
- (b) the Christmas vacation shall commence on December 22, and
- (c) the second school term shall commence on January 7.

(4) Where Christmas falls on a Wednesday

- (a) the first school term shall commence on September 3,
- (b) the Christmas vacation shall commence on December 21, and
- (c) the second school term shall commence on January 6.

(5) Where Christmas falls on a Thursday,

- (a) the first school term shall commence on September 2,

- (b) the Christmas vacation shall commence on December 20, and
- (c) the second school term shall commence on January 5.

(6) Where Christmas falls on a Friday,

- (a) the first school term shall commence on September 1,
- (b) the Christmas vacation shall commence on December 19, and
- (c) the second school term shall commence on January 4.

(7) Where Christmas falls on a Saturday,

- (a) the first school term shall commence on September 1,
- (b) the Christmas vacation shall commence on December 18, and
- (c) the second school term shall commence on January 4.

### **Elementary schools instruction time**

**110.**(1) In elementary schools, the school day for instructional purposes shall comprise five hours of instructional time, exclusive of any recesses or intermissions.

(2) Notwithstanding subsection (1), a principal may with the approval of the school committee or, where there is no school committee, the regional superintendent, reduce the instructional time for pupils in grade I to four and one-half hours each school day.

### **Secondary schools instruction time**

**111.** In secondary schools, the school day for instructional purposes shall comprise five hours of instructional time, exclusive of any recesses or intermissions.

### **Hours of pupil attendance and recesses**

**112.** A principal shall, in consultation with the school committee or, where there is no school committee, the regional superintendent, determine the hours of pupil attendance and the duration of any recesses or intermissions.

### **Kindergarten instruction**

**113.**(1) The Executive Council Member shall establish a programme of kindergarten instruction within the Yukon school system.

(2) No child shall be compelled to attend a programme of kindergarten instruction.

(3) A child may not attend more than one session of kindergarten instruction per day in a kindergarten established pursuant to subsection (1).

(4) A child is not eligible for kindergarten instruction in a programme established pursuant to subsection (1) until he has attained the age of four years and eight months.

(5) The Executive Council Member may establish a programme of pre-kindergarten instruction within the Yukon school system and make regulations respecting the programme.

(6) The Commissioner in Executive Council may make regulations governing the establishment of pre-kindergarten and kindergarten programmes other than those mentioned in subsections (1) and (5), and the Executive Council Member may make contributions toward the operation of such programmes.

**Lord's Prayer**

**114.(1)** The superintendent may, on the recommendation of the school committee, direct that a Yukon school be opened by the recitation of the Lord's Prayer.

(2) The superintendent may, on the recommendation of the school committee, direct that a Yukon school be opened by a patriotic exercise.

**Languages**

**115.** All schools shall be taught in the English language, but the superintendent may permit any class or course to be taught in another language in any school.

**Agreements with other school authorities**

**116.(1)** The Commissioner in Executive Council is authorized to enter into and execute, on behalf of the Government of the Yukon, an agreement with a school authority providing for the education by the authority of children for whose education the Government of the Yukon is responsible.

(2) The Commissioner in Executive Council is authorized to enter into and execute, on behalf of the Government of the Yukon, an agreement with a school authority providing for the education by the Government of the Yukon, of children for whom the authority is responsible.

(3) An agreement entered into by the Commissioner in Executive Council pursuant to this section with the board of a separate school district shall be on terms not less favourable than if the agreement was entered into with the board of a public school district.

(4) An agreement entered into by the Commissioner in Executive Council pursuant to this section with the board of a public school district shall be on terms not less favourable than if the agreement was entered into with the board of a separate school district.

(5) The Commissioner in Executive Council is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon pursuant to any agreement entered into pursuant to this section.

**Regulations**

**117.(1)** The Commissioner in Executive Council may make any regulations necessary to carry out the provisions of this Act.

(2) Notwithstanding the generality of subsection (1), the Commissioner in Executive Council may make regulations

- (a) to prescribe the conditions under which a school shall be established;
- (b) to prescribe the conditions under which a school shall be closed;
- (c) to prescribe the duties of any official appointed under this Act;
- (d) to prescribe the remuneration and the terms and conditions of employment of teachers;
- (e) to prescribe the duties of any person appointed pursuant to this Act;
- (f) to prescribe the grades of certificates of qualification to be issued to teachers;
- (g) to prescribe the categories, for salary purposes, to be assigned to the certificates of qualification issued to teachers;



- (h) to establish schools or courses to provide specialized types of education, or education for children suffering physical or mental disability;
- (i) respecting the tuition fees to be charged for the operation of schools or courses established pursuant to paragraph (h);
- (j) respecting the provision of correspondence courses of instruction and making rules concerning such courses and the fees to be charged in respect of them;
- (k) to determine books and supplies to be supplied free of charge, or on loan or sale, to teachers or pupils;
- (l) respecting the provision of transportation for pupils or an allowance in lieu thereof;
- (m) respecting the provision of accommodation for pupils or an allowance in lieu thereof;
- (n) respecting examinations and boards of examiners;
- (o) respecting the establishment and operation of pre-kindergarten programmes and kindergarten programmes within and without the school system;
- (p) respecting the Teacher Qualification Board;
- (q) for the training of teachers or others;
- (r) to provide post-secondary courses and make rules governing such courses and the fees to be charged in respect of them.

## PART 6

### TEACHERS STAFF RELATIONS

#### Interpretation

**118.(1)** In this Part,

- “adjudication” means the determination of a grievance;
- “arbitral award” means an award in respect of a dispute;
- “arbitration” means the determination of a dispute;
- “bargaining agent” means an employee organization that has been certified as a bargaining unit and the certification of which has not been revoked;
- “bargaining unit” means a unit determined by the board to be appropriate for collective bargaining;
- “board” means the Yukon Teachers Staff Relations Board established under section 121;
- “chairperson” means the chairperson of the board;
- “collective agreement” means an agreement in writing entered into under this Act between the employer and a bargaining agent containing provisions respecting terms and conditions of employment and related matters and the respective rights and obligations of the employer and the bargaining agent in relation to each other;
- “dispute means a dispute or difference
  - (a) arising in connection with the entering into, renewing or revising of a collective agreement in respect of which arbitration may be requested pursuant to subsection 166(1), or
  - (b) that may be referred by the board to arbitration pursuant to section 175;
- “employee” means a person employed or appointed by the Government of the Yukon pursuant to section 10 but does not include
  - (a) a person appointed pursuant to section 7 or 8,
  - (b) a person to whom the Public Service Commission Act applies,

- (c) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,
- (d) a person employed on a relief, casual or temporary basis, unless he has been so employed for more than ten consecutive and continuous months in any continuous period of 12 months, and
- (e) a person temporarily assigned duties similar to a person appointed pursuant to section 7 or 8;

“employee organization” means any organization of employees the purposes of which include the regulation of relations between the employer and his employees;

“employer” means the Government of the Yukon;

“grievance” means a complaint in writing presented in accordance with this Part by an employee on his own behalf or on behalf of himself and one or more other employees, or by a bargaining agent or the employer;

“lockout” includes the closing of a place of employment, a suspension of work by the employer or a refusal by the employer to continue to employ a number of his employees, done to compel the employees to agree to terms or conditions of employment;

“mediator” means a person appointed by the chairperson under section 161 or 162;

“parties” means

- (a) in relation to collective bargaining, consultation, arbitration or a dispute, the employer and a bargaining agent, and
- (b) in relation to a grievance, the employer, the bargaining agent and the employee who presented the grievance or, where subsection 182(3) applies, the personal representative of an employee;

“person employed in a managerial capacity” means

- (a) any person who regularly participates to a significant degree in the formulation and determination of government policies and proposals,
- (b) any person who is directly involved on behalf of the employer in the processes provided for in this Part, and
- (c) any person who is appointed pursuant to section 7 or 8 of this Act;

“prescribed” means prescribed by regulations of the Commissioner in Executive Council on the recommendation of the board;

“strike” includes

- (a) a cessation of work or a refusal to work or to continue to work by employees in combination, in concert or in accordance with a common understanding, and
- (b) a slowdown of work or other concerted activity on the part of employees that is designed to restrict or limit the work of employees;

“unit” means a group of two or more employees.

(2) No person ceases to be an employee within the meaning of this Act by reason only of his discharge or release from employment contrary to this Act.

### **Employee rights**

**119.** Every employee is free to join an employee organization of his choice and to participate in its lawful activities.

**Employer rights**

**120.**(1) Nothing in this Act shall be construed to affect the right or authority of the employer

- (a) to establish, manage and direct an educational system and schools established pursuant to this Act, and to determine the organization of the system or any school established pursuant to section 4,
- (b) to recruit and make appointments pursuant to this Act,
- (c) to promote and transfer employees,
- (d) subject to section 20, to demote employees,
- (e) subject to section 80, to discipline employees,
- (f) subject to section 91, to lay-off employees, and
- (g) to assign duties to employees and subject to the provisions of this Act, to prescribe grades and categories of certificates of qualification to be assigned to those employees.

(2) Nothing in this Act affects the right of the employer to engage private contractors or contract work out for any purpose whatsoever.

**YUKON TEACHERS STAFF RELATIONS BOARD****Composition and operation**

**121.**(1) There shall be a board to be called the Yukon Teachers Staff Relations Board, consisting of a chairperson, and such other members, not less than five, as the Commissioner considers advisable.

(2) The chairperson shall be appointed by the Commissioner in Executive Council.

(3) The members of the board other than the chairperson shall be appointed by the Commissioner in Executive Council on the recommendation of the chairperson.

(4) Prior to making a recommendation pursuant to subsection (3), the chairperson shall consult with the employer and the bargaining agent.

(5) A member of the board shall exercise such powers and functions under this Act as may be assigned to him by the chairperson.

(6) A member of the board may be removed from office at any time by the Commissioner in Executive Council upon the recommendation of the chairperson.

**Eligibility for membership**

**122.**(1) A person is not eligible to hold office as a member of the board if

- (a) he is not a Canadian citizen,
- (b) he holds any other office or employment under the employer, or
- (c) he is a member of or holds an office or employment under an employee organization that is a bargaining agent.

(2) Where a person ceases to be a member of the board for any reason, he may carry out and complete any duties or responsibilities that he would otherwise have had if he had not ceased to be a member in connection with any matter

- (a) that came before the board while he was still a member thereof, and
- (b) in respect of which there was any proceeding in which he participated as a member.

### **Remuneration and expenses**

**123.** The Commissioner in Executive Council on the recommendation of the chairperson shall fix

- (a) the remuneration to be paid to the members of the board and any other person appointed under this Part, and
- (b) travelling and living expenses to be paid to the members of the board or any other person appointed under this Part in connection with the performance of their duties when absent from their ordinary place of residence.

### **Meetings**

**124.** The board may meet for the conduct of its business or for any proceeding before the board at such times and places as it considers necessary or desirable.

### **Divisions of the board**

**125.(1)** Subject to subsection 132(3), the chairperson may, for the purposes of any application, proceeding or reference, or the hearing or determination of any matter, establish a division of the board and direct that the powers, duties and functions of the board, or any of them, be exercised and performed by that division.

(2) A division of the board shall consist of one or more members to be designated by the chairperson, but the number so designated shall always be an uneven number.

(3) Where a division of the board consists of more than one member, the chairperson shall designate one member to act as chairperson of the division.

(4) The board may sit in two or more divisions simultaneously and a decision of the majority of those present at any meeting of the board, or a division thereof, is a decision of the board.

### **Appointment of consultants**

**126.(1)** The chairperson may appoint such experts or consultants as he considers advisable to sit with any division of the board established to hear and determine any matter within the jurisdiction of the board.

(2) An expert or consultant appointed under subsection (1) may attend all meetings of the board or a division of the board at which the matter in respect of which he was appointed is heard and determined and advise the board or a division of the board thereon, but he shall not vote nor make any report or observation thereon except to the members of the board or a division of the board.

**Chairperson**

127.(1) The chairperson is the chief executive officer of the board and has supervision and direction of the work of the board, but he may authorize any of the members to act on his behalf in relation to any matter or class of matters.

(2) The chairperson may appoint such other officers and employees as he deems necessary for the performance of the duties of the board.

(3) The Commissioner in Executive Council on the recommendation of the chairperson shall appoint and fix the remuneration of persons having technical or special knowledge to assist the board in any capacity.

**Rules of procedure**

128. The board may make rules respecting

- (a) procedure for its hearings,
- (b) the forms to be used in respect of any proceeding that may come before the board,
- (c) the certification of employee organizations as bargaining agents,
- (d) the form in which, and the time at which, evidence of
  - (i) membership of employees in an employee organization,
  - (ii) objection by employees to certification of an employee organization, or
  - (iii) signification by employees that they no longer wish to be represented by an employee organization
 shall be presented to the board upon an application for certification or for revocation of certification of a bargaining agent,
- (e) the circumstances in which evidence as to membership of employees in an employee organization may be received by the board as evidence that such employees wish the employee organization to represent them as their bargaining agent,
- (f) the time or times at which the board may receive an application from an employee organization for certification as the bargaining agent for a bargaining unit where the board has refused an application from the employee organization for certification in respect of the same or substantially the same unit,
- (g) the conduct of representation votes,
- (h) the form in which and the time of the giving or filing of any notice, undertaking, statement, reference or other document required under this Part,
- (i) the form in which and the time at which evidence and information may be presented to the board in connection with any proceeding that may come before it,
- (j) the circumstances in which notices to parties or persons shall be deemed to have been given or received by the board or any party or person,
- (k) the prescribing of any matter or thing that by this Part is to be prescribed, and
- (l) such other matters and things as may be incidental or conducive to the objects and purposes of the board, the exercise of its powers and the attainment of the objects of this Part.

**Exercise of powers**

**129.(1)** The board shall exercise such powers and perform such duties as are conferred or imposed upon it by this Part, or as may be incidental to the attainment of the objects of this Part.

(2) Without limiting the generality of the foregoing, the board may, in relation to any proceeding before it,

- (a) summon witnesses and, subject to section 130, require them to give oral or written evidence on oath, and to produce such documents and things as the board deems requisite to the full investigation and consideration of any matter within its jurisdiction that is before the board in the proceeding in the same manner as a superior court of record,
- (b) administer oaths and affirmations,
- (c) receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it sees fit, whether admissible in a court of law or not, and the board may refuse to accept any evidence that is not presented in the form and at the time prescribed,
- (d) examine, in accordance with any rules of the board, such evidence as is submitted to it respecting the membership of any employees in an employee organization seeking certification, objection by employees to the certification of an employee organization or signification by employees that they no longer wish to be represented by a bargaining agent,
- (e) examine the constitution or articles of association, or any document related thereto, of an employee organization that is seeking certification,
- (f) make or cause to be made such examination of records and such inquiries as it deems necessary,
- (g) require the employer to post and keep posted in appropriate places any notice that the board considers necessary to bring to the attention of any employees any matter or proceeding before the board,
- (h) subject to such limitations as the Commissioner in Executive Council in the interests of defence or security may prescribe, enter any premises of the employer where work is being or has been done by employees and inspect and view any work, material, machinery, appliances or articles therein and interrogate any person respecting any matter that is before the board in the proceeding,
- (i) order that
  - (i) a representation vote be taken among employees affected by the proceeding, before or after any hearing the board may conduct in respect of the proceeding, and
  - (ii) the ballots cast in any vote under clause (i) be sealed in ballot boxes and not counted until the parties to the proceeding have been given an opportunity of being heard by the board,
- (j) enter upon the employer's premises for the purpose of conducting representation votes during working hours,
- (k) authorize any person to do anything that the board may do under paragraphs (b) to (h) and paragraph (j) and report to the board thereon,
- (l) adjourn or postpone the proceeding from time to time,

- (m) except as otherwise provided in this Part, shorten or extend the time for instituting the proceeding or for doing any act, filing any document or presenting any evidence in connection with the proceeding,
  - (n) amend or permit the amendment of any document filed in connection with the proceeding, and
  - (o) add a party to the proceeding at any stage of the proceeding.
- (3) The board may determine
- (a) any application, complaint, question, dispute or matter that may be made or referred to the board,
  - (b) any matter relating to or arising out of the revocation of certification of a bargaining agent, including the rights and privileges that have accrued to or are retained by any employee notwithstanding such revocation,
  - (c) any matter relating to the merger, amalgamation or transfer of jurisdiction between two or more employee organizations or including the rights and privileges that have accrued to or are to be retained by any employee, notwithstanding the merger, amalgamation or transfer of jurisdiction, and
  - (d) for the purposes of this Part, any question that may arise in a proceeding including, without restricting the generality of the foregoing, any question as to whether
    - (i) a person is an employee,
    - (ii) an organization is an employee organization,
    - (iii) a unit of employees is a unit appropriate for collective bargaining,
    - (iv) a collective agreement has been entered into,
    - (v) any person or organization is a party to or bound by a collective agreement or arbitral award,
    - (vi) a collective agreement or arbitral award is in operation, and
    - (vii) in any case of doubt, any occurrence or matter may be said to constitute a grievance.

(4) Subject to section 215, the board shall give full opportunity to the parties to any proceeding to present their evidence and make their submissions.

#### **Attendance of witnesses**

##### **130. In any case where**

- (a) the board has summoned a witness and the person summoned fails to appear at a hearing, or
- (b) a person who has appeared as a witness refuses to give oral or written testimony on oath or to produce such documents and things as the board deems requisite to the full investigation and consideration of a matter that is before the board,

the board shall refer the matter to the Supreme Court and the Supreme Court may make such order in respect of the reference as it deems appropriate.

#### **Orders of the board**

**131.** Where, under this Part, the board may make or issue any order or decision, prescribe any term or condition or do any other thing in relation to any person or employee organization, the board may do so, either generally or in any particular case or class of cases.

**Variation of decisions**

132.(1) Subject to subsections (2) and (3), the board may review, rescind, amend, alter or vary any decision, order or award made by it, or may re-hear any application, complaint, reference or other matter before making any decision, order or award in respect thereof, where it is made to appear to the board that the review, rescission, amendment, alteration or variation is warranted having regard to circumstances that have arisen since the making of the decision, order or award, or of which the board did not have notice at the time of the making thereof or having regard to such other circumstances as the board considers relevant, but no application for review, rescission, amendment, alteration or variation may be made without the consent of the board after the expiration of three months from the day on which the decision, order or award was released to the parties.

(2) Any rights acquired by virtue of any decision, order or award that is reviewed, rescinded, amended, altered or varied pursuant to subsection (1) shall not be altered or extinguished with effect from a day earlier than the day on which such review, rescission, amendment, alteration or variation was made, unless the board otherwise directs.

(3) Where it is made to appear to the chairperson that the decisions, orders or awards by two or more divisions of the board are inconsistent, he may refer such decisions, orders or awards to a review division of the board to consist of at least three members, one of whom shall be the chairperson; the review division may include any person who was a member of any division that made the decisions, orders or awards so referred; such review division, after affording an opportunity to the parties to the decisions, orders or awards referred to it to be heard, may rescind, amend, alter or vary any decisions, orders or awards so referred; the decision of the review division shall be final and binding on all parties.

**ACQUISITION AND TERMINATION OF BARGAINING RIGHTS****Application for certification**

133.(1) An employee organization seeking to be certified as the bargaining agent for a unit that the employee organization considers constitutes a unit appropriate for collective bargaining may, subject to this section and any rules made by the board under paragraph 128(f), apply to the board for certification as the bargaining agent for the unit.

(2) Subject to subsection (3), an application by an employee organization for certification as the bargaining agent for a unit may be made

- (a) where no collective agreement or arbitral award relating to the unit is in force and no employee organization has been certified under this Part as the bargaining agent for the unit, at any time,
- (b) where no collective agreement or arbitral award relating to the unit is in force but another employee organization has been certified under this Part as the bargaining agent for the unit, after the expiration of 12 months from the date of that certification or, with the consent of the board, at any earlier time,
- (c) where a collective agreement or arbitral award relating to the unit is in force and is for a term of not more than two years, only after the commencement of the last three months of its operation, and
- (d) where a collective agreement or arbitral award relating to the unit is in force and is for a term of more than two years, only



- (i) after the commencement of the 22nd month of its operation and before the commencement of the 25th month of its operation,
- (ii) during the three month period immediately preceding the end of each year that the collective agreement or arbitral award continues to operate after the second year of its operation, or
- (iii) after the commencement of the last three months of its operation.

(3) Where a collective agreement referred to in subsection (2) provides that it will continue to operate after the term specified therein for a further term or successive terms if either party fails to give to the other notice to bargain with a view to the renewal, with or without modifications, of the collective agreement, an employee organization may apply to the board for certification as bargaining agent for any of the employees in the bargaining unit to whom the collective agreement applies at any time permitted by subsection (2), or during the three month period immediately preceding the end of each year that the collective agreement continues to operate after the term specified therein.

#### **Undertaking respecting applications**

134. Every application for certification under this Part shall be accompanied by an undertaking in the prescribed form by a duly authorized officer of the employee organization that, if the employee organization takes a vote of the employees in the bargaining unit that the board determines to be appropriate to ratify the terms of any collective agreement in respect of the bargaining unit, only employees in the bargaining unit shall be permitted to vote.

#### **Determination of bargaining units**

135.(1) Where an employee organization applies under section 133 for certification as the bargaining agent for a unit that the employee organization considers appropriate for collective bargaining, the board shall determine the unit that, in the opinion of the board, is appropriate for collective bargaining.

(2) In determining whether a unit constitutes a unit appropriate for collective bargaining, the board shall take all relevant matters into account.

#### **Certification of bargaining agent**

136. Where the board

- (a) has received from an employee organization an application for certification as the bargaining agent for a unit,
- (b) has determined the bargaining unit that constitutes a unit appropriate for collective bargaining, and
- (c) is satisfied that a majority of employees in the bargaining unit wish to have the employee organization represent them as their bargaining agent,

the board shall, subject to this Part, certify the employee organization making the application as the bargaining agent for the employees in that bargaining unit.

#### **Representation votes**

137.(1) For the purpose of satisfying itself as to whether employees in a bargaining unit wish to have a particular employee organization represent them as their bargaining agent, the board may order that a representation vote be taken among the employees in the unit.

## (2) Where

- (a) an employee organization applies for certification as the bargaining agent for a unit in respect of which no other employee organization is the bargaining agent, and
- (b) the board is satisfied that not less than 35 percent and not more than 50 percent of the employees in the bargaining unit are members of the employee organization,

the board shall order that a representation vote be taken among the employees in the bargaining unit.

**Determination of voters**

**138.(1)** Where the board orders that a representation vote be taken among employees in a bargaining unit, the board shall

- (a) determine the employees that are eligible to vote, and
- (b) make such arrangements and give such directions as the board considers necessary for the proper conduct of the representation vote, including the preparation of ballots, the method of casting and counting ballots, and the custody and sealing of ballots boxes.

(2) Where the board orders that a representation vote be taken on an application by an employee organization for certification as the bargaining agent for a bargaining unit in respect of which no other employee organization is the bargaining agent, the board shall include on the ballots a choice whereby an employee may indicate that he does not wish to be represented by any employee organization named on the ballots.

## (3) Where

- (a) the board has ordered that a representation vote be taken among employees in a bargaining unit,
- (b) the board has ordered that the employees in the bargaining unit be given a choice among employee organizations, and
- (c) the employees in the bargaining unit who cast ballots have not given majority support to one employee organization, but have cast ballots in favour of all employee organizations involved in the representation vote totalling more than 50 percent of all the ballots cast,

the board shall order that an additional representation vote be taken and, in such case, shall include on the ballots a choice whereby an employee may indicate whether he wishes to be represented by the employee organization for which the largest number of votes were cast in the first representation vote.

**Determination by majority of voters**

**139.(1)** Subject to subsection (2), the board shall determine the result of a representation vote on the basis of the ballots cast by the majority of employees voting.

(2) Where the board determines that less than 35 percent of the employees eligible to vote in a representation vote have voted, the vote is void.

(3) A vote by the majority of the employees voting in a representation vote is evidence that a majority of employees in the bargaining unit in respect of which the vote was ordered are of the opinion expressed in the vote of the majority of employees voting.

#### **Uncertifiable organizations**

**140.**(1) The board shall not certify an employee organization as bargaining agent for a bargaining unit where it is satisfied that the employee organization

- (a) is barred by its constitution from entering into or administering a collective agreement,
- (b) is so dominated or influenced by the employer that the fitness of the employee organization to represent employees for the purpose of collective bargaining is impaired, or
- (c) denies membership in the organization to any employee or class of employees in a bargaining unit by virtue of a policy or practice that the employee organization applies relating to qualification for membership in the organization.

(2) The board shall not certify an employee organization as bargaining agent for a bargaining unit where it is satisfied that the employee organization requires as a condition of membership therein the payment by any of its members of any money for activities carried on, by or on behalf of any political party.

(3) The board shall not certify an employee organization as bargaining agent for a bargaining unit where it is satisfied that the employee organization discriminates against any employee because of sex, marital status, race, national origin, colour or religion.

#### **Rights of bargaining agent**

**141.**(1) Where an employee organization is certified as the bargaining agent for a bargaining unit

- (a) the employee organization so certified has the exclusive authority in accordance with this Part
  - (i) to bargain collectively and consult with the employer on behalf of the employees in the bargaining unit,
  - (ii) to represent the employees in the bargaining unit in the reference of a dispute to arbitration,
  - (iii) to represent an employee in the bargaining unit in the presentation of a grievance or the reference thereof to the board, and
  - (iv) with the consent of the employee, to represent him in any proceedings pursuant to sections 80 or 82,
- (b) the certification of any employee organization that was previously certified as the bargaining agent for any of the employees in the bargaining unit is deemed to be revoked to the extent that the certificate relates to those employees, and
- (c) the employee organization so certified is deemed to be substituted as a party to any collective agreement or arbitral award that affects any employees in the bargaining unit, to the extent that the agreement or award relates to those employees, in the place of the bargaining agent named in the agreement or award or any successor thereto.

(2) Where, pursuant to paragraph (1)(c), an employee organization is deemed to be substituted as a party to a collective agreement or arbitral award, either party to the agreement or award may, notwithstanding anything contained in the agreement or award, terminate the agreement or award insofar as it applies to the employees in the bargaining unit upon three months notice given within one month from certification of the employee organization.

(3) In any case where paragraph (1)(b) or (c) applies, any question as to the right or duty of the previous bargaining agent or the new bargaining agent arising by reason of the application of either paragraph shall, on application by the employer or the previous or new bargaining agent, be determined by the board.

### **Determination of residual rights**

142. Where, at any time following the determination by the board of a group of employees to constitute a unit appropriate for collective bargaining, any question arises as to whether any employee or class of employees is or is not included therein or is included in any other bargaining unit, the board shall, on application by the employer or any employee organization affected, determine the question.

### **Deduction of dues from pay**

143.(1) Subject to subsection (3), an employee who is represented by a bargaining agent may authorize the employer in writing, at any time after the date on which the bargaining agent was certified for the bargaining unit, to deduct from his pay the amount of the regular monthly membership dues payable by him to the bargaining agent and to remit that amount to the bargaining agent, and the employer shall deduct and remit that amount in accordance with the authorization.

(2) Subject to subsection (3), an employee may, by notice in writing to the employer, revoke an authorization given by him pursuant to subsection (1), and that revocation shall have effect 30 days from the date upon which it is received by the employer.

(3) Subsections (1) and (2) do not apply to an employee who is bound by a collective agreement entered into between the employer and a bargaining agent that contains a provision requiring the employer to deduct from the pay of the employee the membership dues or amounts of money in lieu of such dues payable by the employee to the bargaining agent.

(4) No money deducted from an employee's salary for payment to an employee organization shall be used directly or indirectly on behalf of any political party or on behalf of any candidate for political office.

### **Application for revocation of certification**

144.(1) Where an employee organization has been certified as the bargaining agent for a bargaining unit, any employee who claims to represent a majority of the employees in the bargaining unit may, subject to subsection (2), apply to the board for an order revoking the certification of that employee organization for the bargaining unit.

(2) An application pursuant to subsection (1) may be made in respect of a bargaining agent for a bargaining unit only during the period in which an application for certification of an employee organization may be made pursuant to subsections 133(2) and (3).

(3) Where, upon receipt of an application under subsection (1) in respect of a bargaining agent for a bargaining unit, the board is satisfied, after such inquiry by way of a representation vote or otherwise as the board considers appropriate in the circumstances, that a majority of the employees in the bargaining unit no longer wish to have the bargaining agent represent them, the board shall by order revoke the certification of the employee organization as the bargaining agent for the bargaining unit.

(4) Where no collective agreement is in force that applies to a bargaining unit, no order shall be made pursuant to subsection (3) in relation to the bargaining unit unless the board is satisfied that the bargaining agent has failed to make a reasonable effort to enter into a collective agreement in relation to the bargaining unit.

### **Abandonment and revocation of certification**

**145.**(1) Where a bargaining agent advises the board in writing that it wishes to give up or abandon its certification or where the board, upon application by the employer, or any employee, determines that the bargaining agent has ceased to act as such, the board shall by order revoke the certification of the employee organization as the bargaining agent for the bargaining unit.

(2) Where the board, upon application, determines that a bargaining agent would not, if it were an employee organization applying for certification, be certified by the board by reason of a prohibition contained in section 140, because of circumstances that arose after certification, the board shall by order revoke the certification of the employee organization as the bargaining agent for the bargaining unit.

### **Revocation because of fraud**

**146.**(1) Where an employee organization has been certified as the bargaining agent for a bargaining unit,

- (a) any employee in the bargaining unit,
- (b) the employer, or
- (c) any employee organization that appeared before the board in the certification proceeding,

who alleges that the certification was obtained by the fraud of the employee organization so certified, may apply to the board at any time for revocation of the certification.

(2) Where the board, upon receipt of an application under subsection (1) in respect of a bargaining agent for a bargaining unit, is satisfied that the evidence in support of the application

- (a) was not and could not, by the exercise of reasonable diligence, have been presented to it in the certification proceeding, and
- (b) is such that the board would have refused to certify the employee organization as the bargaining agent for the bargaining unit if the evidence had been presented to it in the certification proceeding,

the board shall by order revoke the certification of the employee organization as the bargaining agent for the bargaining unit.

(3) An employee organization the certification of which is revoked pursuant to subsection (2) is not entitled to claim any right or privilege flowing from such certification, and any collective agreement or arbitral award applying to the bargaining unit for which it was certified, to which such employee organization was a party, is void.

#### **Revocation for breach of undertaking**

**147.** Where at any time the board, upon application, is satisfied that an employee organization has failed to comply with the undertaking required by section 134, the board may by order revoke the certification of the employee organization as bargaining agent for the bargaining unit.

#### **Termination of collective agreement**

**148.** Where the board makes an order under section 144, 145 or 147 revoking the certification of an employee organization, any collective agreement or arbitral award between the employee organization and the employer that applies to the bargaining unit ceases to have effect, except where another employee organization is substituted as a party to the agreement or award upon the revocation of such certification.

#### **Determination of rights on revocation**

**149.(1)** Where the certification of a bargaining agent for a bargaining unit is revoked by the board pursuant to section 144, 145 or 147, any question as to any right or duty of that bargaining agent or of any new bargaining agent replacing it shall, on application by the employer or either bargaining agent, be determined by the board.

(2) Where the certification of a bargaining agent for a bargaining unit is revoked by the board pursuant to section 144, 145, 146 or 147 and as a result thereof a collective agreement or arbitral award ceases to be in effect or a collective agreement or arbitral award applying to the bargaining unit is void, the board shall, on application to it by or on behalf of any employee, direct the manner in which any right acquired by, or determined by the board to have accrued to, an employee that is affected by the revocation is to be recognized and given effect.

#### **Successor rights**

**150.(1)** Where, upon a merger or amalgamation of employee organizations or a transfer of jurisdiction among employee organizations otherwise than as a result of revocation of certification, any question arises concerning the rights, privileges and duties of an employee organization under this Part or under a collective agreement or arbitral award in respect of a bargaining unit or an employee therein, the board, on application to it by the employer or any employee organization affected, shall examine the question and may determine what rights, privileges and duties if any have been acquired or are retained, as the case may be, by that employee organization.

(2) Before determining pursuant to subsection (1) what rights, privileges and duties of an employee organization have been acquired or are retained, the board may direct that such representation votes be taken as it considers necessary.

#### **Determination of units appropriate for bargaining**

**151.(1)** Where the board has certified an employee organization as the bargaining agent for employees in more than one bargaining unit, the board may, upon the joint application of the employer and the bargaining agent, determine that the unit appropriate for collective

bargaining includes employees in more than one of the bargaining units, and if it is satisfied that the processes of bargaining and consultation between the parties under this Part will thereby be improved, it may certify the employee organization as the bargaining agent for such unit, hereinafter in this section referred to as the "merged unit", and it shall amend, to the extent the board considers necessary, any certificates previously issued to the employee organization so as to comprise in one certificate two or more of the bargaining units for which it was previously certified.

(2) Every application under subsection (1) shall be accompanied by a statement specifying the terms and conditions of employment that the parties agree shall apply to the employees in the merged unit.

(3) Subject to subsections (4) and (5), where the board certifies an employee organization as bargaining agent for a merged unit, the statement referred to in subsection (2) shall be deemed to be the collective agreement applicable to the employees in the merged unit and shall be substituted for any collective agreement or arbitral award that was applicable to the employees in the respective bargaining units for which the employee organization was certified as bargaining agent at the time of the certification of the organization as bargaining agent for the merged unit.

(4) At the time of the certification of an employee organization as bargaining agent for a merged unit, the board shall determine when notice to bargain may be given by either party for the renewal of the collective agreement deemed under subsection (3) to be applicable to the employees in the merged unit.

(5) Where subsection (3) applies, the board shall, on application to it by or on behalf of any employee, direct the manner in which any right acquired by, or determined by the board to have accrued to, an employee under any collective agreement or arbitral award applicable to him prior to the certification of the bargaining agent for the merged unit is to be recognized and given effect.

### **Employees temporarily assigned management duties**

152.(1) Where a bargaining agent has been certified for a bargaining unit and the employer temporarily assigns or proposes to temporarily assign to a person in that bargaining unit duties and responsibilities that, in the opinion of the employer, would identify him as a person employed in a managerial capacity, the employer shall file with the board and serve on the bargaining agent in the prescribed form, a notice of such assignment or proposed assignment and the person shall be deemed to be identified as a person employed in a managerial capacity, but the employee may continue to be a member of the bargaining unit upon giving an undertaking that he will not hold office in the organization and that he will not participate in or vote on any matter that may be determined by collective bargaining, arbitration or adjudication under this Part.

(2) Where a bargaining agent, after the receipt by it of the notice referred to in subsection (1), files with the board within the prescribed time an objection to the notice, the board shall determine whether, by reason of the duties assigned or proposed to be assigned to the person named in the notice, he is or would be a person employed in a managerial capacity.

(3) Where a person identified under this section as a person employed in a managerial capacity ceases to perform the duties and responsibilities in respect of which he was identified, the employer shall give notice in writing forthwith to the bargaining agent, and such person shall be deemed to be included in the appropriate bargaining unit upon his ceasing to perform such duties and responsibilities.

## **COLLECTIVE BARGAINING**

### **Obligation to bargain collectively**

**153.(1)** Where the board has certified a bargaining agent for a bargaining unit and no collective agreement or arbitral award binding on the employees in the bargaining unit is in force

- (a) the bargaining agent may, on behalf of the employees in the bargaining unit, by notice, require the employer to commence collective bargaining, or
- (b) the employer may, by notice, require the bargaining agent to commence collective bargaining,

for the purpose of entering into a collective agreement.

(2) Either party to a collective agreement or arbitral award may, within the period of three months immediately preceding the date of expiration of the term of the collective agreement or arbitral award, or within such longer period as may be provided for in the collective agreement or by agreement of the parties, by notice, require the other party to the collective agreement or arbitral award to commence collective bargaining for the purpose of renewing or revising the collective agreement or entering into a new collective agreement.

### **Commencement of bargaining**

**154.(1)** Where notice to bargain collectively has been given under this Part, the bargaining agent and the officers designated to represent the employer, without delay, but in any case within 20 days after the notice was given unless the parties otherwise agree, shall

- (a) meet and commence to bargain collectively in good faith, and
- (b) make every reasonable effort to enter into a collective agreement.

(2) Where notice to bargain collectively has been given under this Part, the employer shall not alter any term or condition of employment applicable to the employees in the bargaining unit in respect of which the notice was given, or any right or privilege of the bargaining agent, that may be embodied in a collective agreement, except with the consent of the bargaining agent, until such time as

- (a) a collective agreement has been entered into by the parties and no request for arbitration has been made in the manner and within the time prescribed therefor by this Part, or
- (b) a request for arbitration has been made in accordance with this Part and a collective agreement has been entered into or an arbitral award has been rendered in respect thereof.

(3) Where the employer may lawfully make an alteration in the terms or conditions of employment applicable to employees in one bargaining unit but the alteration would be prohibited by subsection (1) with respect to the employees in another bargaining unit, the board may, notwithstanding subsection (1), on application by either party, consent to the alteration of such



terms or conditions of employment for employees in the unit in respect of which notice was given under that subsection to such extent and under such conditions as the board considers appropriate.

#### **Authority to enter into collective agreements**

**155.** The Executive Council Member may, in such manner as may be provided for by any rules or procedures prescribed pursuant to the Financial Administration Act, enter into a collective agreement with the bargaining agent for a bargaining unit, applicable to employees in that bargaining unit.

#### **Matters excluded from collective agreement**

**156.**(1) Subject to subsection (2), no collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or condition of employment or the establishment of any new term or condition of employment,

- (a) the alteration, elimination or establishment of which would require or have the effect of requiring the enactment or amendment of any legislation by the Legislature, except for the purpose of appropriating money required for its implementation, or
- (b) that has been or may be established pursuant to any Act except paragraph 117(2)(d).

(2) No collective agreement shall contain provisions respecting the standards, procedures or processes governing the appointment, promotion, demotion, lay-off, transfer or work performance evaluation of employees or, subject to section 184, any provision respecting the grievance process.

#### **Strikes and lockouts**

**157.**(1) Every collective agreement shall provide that, during the term of the agreement, the bargaining agent shall not declare or authorize, and the officers or representatives of the bargaining agent shall not counsel or procure the declaration or authorization of, a strike of employees or the participation of employees in a strike of employees in the bargaining unit to which the collective agreement relates.

(2) Every collective agreement shall provide that, during the term of the agreement, no person employed in a managerial capacity, whether or not he is acting on behalf of the employer, shall cause, counsel or procure a lockout of any employees in the bargaining unit to which the agreement relates.

(3) Where a collective agreement entered into after the coming into force of this Act does not contain a provision referred to in subsection (1) or (2), it may be added to the agreement at any time by the board upon the application of either party.

(4) Where no collective agreement applying to a bargaining unit is in force and the parties are bound by an arbitral award in respect of the bargaining unit, the board may, upon the application of either party to the award, direct that the award be amended by adding thereto a provision referred to in subsection (1) or (2).

**Time for implementation of collective agreement**

**158.** The provisions of a collective agreement shall, subject to the appropriation under the authority of the Legislature of any money that may be required by the employer therefor, be implemented by the parties,

- (a) where a period for implementation is specified in the collective agreement, within that period, and
- (b) where no period for implementation is so specified,
  - (i) within a period of 90 days from the date of its execution, or
  - (ii) within such longer period as may be agreed upon by the parties or as may, on application by either party to the agreement, appear reasonable to the board.

**Effective commencement of collective agreement**

**159.(1)** A collective agreement has effect in respect of a bargaining unit on and from,

- (a) where an effective date is specified, that day, and
- (b) where no effective date is specified, the first day of the month next following the month in which the agreement is executed.

(2) Where a collective agreement contains no provision as to its term, or is for a term of less than one year, the collective agreement shall be deemed to be for a term of one year from the day on and from which it has effect pursuant to subsection (1).

(3) Nothing in this Part prohibits the parties to a collective agreement from agreeing to a revision of any provision of the collective agreement other than a provision relating to the term of the collective agreement.

(4) The board may, upon application made by both parties to a collective agreement, authorize them to terminate the agreement before it ceases to operate in accordance with the provisions of the agreement.

**Binding effect of collective agreements**

**160.** A collective agreement is, subject to and for the purposes of this Act, binding on the employer, on the bargaining agent and its constituent elements, and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on and from which it has effect pursuant to subsection 159(1).

**RESOLUTION OF DISPUTES****Appointment of mediator at request of party**

**161.** Where the employer or a bargaining agent advises the chairperson by notice in writing of the inability of the parties to reach agreement on any term or condition of employment that may be embodied in a collective agreement and that it desires the assistance of a mediator in reaching agreement, the chairperson may appoint a mediator who shall, forthwith after his appointment, confer with the parties and endeavour to assist them in reaching agreement.

**Appointment of mediator in other cases**

**162.** In any case not provided for under section 161, the chairperson may, after consultation with the parties, appoint a mediator where it appears to him that the appointment of such an officer may serve the purpose of assisting the parties in reaching agreement in any dispute or on

any difference and that, without the appointment of such an officer, the parties are unlikely to reach agreement or resolve the difference.

#### **Report of mediator**

**163.** Where a mediator has been appointed under sections 161 or 162, he shall within 14 days from the date of his appointment, or within such longer period as the chairperson may allow, report to the chairperson as to whether or not he has succeeded in assisting the parties in entering into or revising a collective agreement.

#### **Extension of time**

**164.** Where a request for arbitration under section 166 has been made and a mediator has been appointed pursuant to section 161 or 162, the mediator shall, within

- (a) 14 days from the date of his appointment, or
- (b) such longer period, not exceeding an additional 14 days as the chairperson after consultation with the parties may allow or as may be agreed upon by the parties,

report to the chairperson as to whether or not he has succeeded in assisting the parties in entering into or revising a collective agreement.

#### **Compulsory arbitration**

**165.** Where the employer and the bargaining agent for a bargaining unit have bargained collectively with a view to concluding a collective agreement but have failed to reach agreement, the matters in dispute shall be referred to arbitration, and sections 166 to 182 apply to the resolution of the dispute.

#### **Notice to arbitrate**

**166.(1)** Where the parties to collective bargaining have bargained collectively with a view to concluding a collective agreement but have been unable to reach agreement on any term or condition of employment of employees in the relevant bargaining unit that may be embodied in an arbitral award, either party may, by notice in writing to the board given

- (a) at any time, where no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or
- (b) not later than seven days after any collective agreement is entered into by the parties, in any other case,

request arbitration in respect of that term or condition of employment.

(2) Where arbitration is requested by notice under subsection (1), the party making the request

- (a) shall specify in the notice the terms and conditions of employment in respect of which it requests arbitration and annex to the notice a copy of any collective agreement entered into by the parties, and
- (b) may annex to the notice its proposals concerning the award to be made by the arbitrator.

(3) Where arbitration is requested by notice under subsection (1) and no collective agreement has been entered into by the parties, the party making the request shall annex to the notice a statement of any terms or conditions of employment that have been conditionally agreed to by the parties.

**Amendments to notice**

**167.(1)** Where notice under section 166 is received by the board from any party requesting arbitration, the board shall forthwith send a copy of the notice to the other party, who shall within seven days after the receipt thereof advise the board, by notice in writing, of any matter, additional to the matters specified in the notice under section 166, that was a subject of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration.

(2) Where arbitration of any matter is requested by notice under subsection (1), the party making the request may annex to the notice its proposals concerning the award to be made by the arbitrator in respect thereof.

**Requirement for filing of proposals**

**168.(1)** Where either party has not annexed to a notice under section 166 or 167 its proposals concerning the award to be made by the arbitrator, the board may by order direct a party to file such proposals, upon such terms and conditions as it considers advisable and, if the party fails to comply with the order, the arbitrator may refuse to permit that party to adduce evidence or make representations in respect of the matter to which the order relates.

(2) Where an order is made under subsection (1), the board may extend the time for giving of a notice under subsection 167(1).

(3) Where arbitration is requested by notice under subsection 166(1), either party may with the consent of the board on such conditions as the board considers advisable, amend the notice under subsection (1) or the notice under subsection 167(1) by adding thereto any term or condition of employment that

- (a) may be embodied in an arbitral award,
- (b) was the subject of negotiation between the parties during the period before arbitration was requested, and
- (c) was omitted from the notice.

**Appointment of arbitrator**

**169.(1)** Where the employer or the bargaining agent or both have requested arbitration pursuant to sections 166 or 175, the chairperson shall, except as provided by sections 161 or 162, within 14 days

- (a) appoint an arbitrator who shall immediately proceed to a consideration of the matter, and
- (b) send to the arbitrator a copy of the notice referred to in subsection 166(2).

(2) A person is not eligible to act as an arbitrator if he would not be eligible to be a member of the board pursuant to subsection 122(1).

(3) No person shall act as an arbitrator in respect of any matter if he has at any time since a day six months before the day of his selection acted in respect of any matter concerning employer-employee relations as lawyer or agent of the employer or of any employee organization that has an interest in the matter in respect of which he was selected as an arbitrator.

(4) The arbitrator has all the powers of the board set out in paragraphs 129(2)(a), (b), (c), (f) and (h) and, in addition, may authorize any person to exercise any of the powers of the arbitrator set out in paragraphs 129(2)(b), (c) and (f) and report to the arbitrator thereon.

(5) Prior to making an appointment pursuant to subsection (1), the chairperson shall consult with the employer and the bargaining agent.

### **Failure to bargain in good faith**

**170.** Where arbitration is requested and it is alleged that the party making the request has not bargained in good faith, the board shall, on application by the other party to the dispute, examine and inquire into the allegation and, if the board is satisfied that the party requesting arbitration has not bargained in good faith, it may postpone the hearing of the request and direct the parties to continue to bargain for such further period as it considers appropriate in the circumstances.

### **Selection of adviser for arbitration**

**171.(1)** In respect of a proceeding on a request for arbitration under section 166, each of the parties shall, within the time prescribed, select one adviser to sit with the arbitrator for the hearing and determination of the dispute.

(2) If either of the parties fails to notify the board within the time prescribed the name of the adviser it has selected under subsection (1), the chairperson shall select an adviser and the person so selected shall be deemed to have been selected by that party.

(3) The provisions of subsections 122(1) and 126(2) apply, with such modifications as the circumstances require, in relation to the qualification and functions of persons to act as advisers under this section.

(4) No person shall act as an adviser in respect of any matter if he has at any time since a day six months before the day of his selection acted in respect of any matter concerning employer-employee relations as lawyer or agent of the employer or of any employee organization that has an interest in the matter in respect of which he was selected as an adviser.

### **Award of arbitrator**

**172.(1)** Subject to section 174, the matters in dispute specified in the notice under section 166, in any notice under section 167 and in any amendment of such notice under subsection 168(3) constitute the terms of reference in relation to the request for arbitration, and the arbitrator shall, after considering the matters in dispute together with any other matter that the arbitrator considers necessarily incidental to the resolution of the matters in dispute, render an arbitral award in respect thereof.

(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute referred to the arbitrator shall be deemed not to include that matter and no arbitral award shall be rendered by the arbitrator in respect thereof.

**Matters to be considered by arbitrator**

**173.** In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute, the arbitrator shall consider

- (a) the need for qualified employees,
- (b) the conditions of employment in similar occupations outside government service, including such geographic or other variations as the arbitrator may consider relevant,
- (c) the need to maintain appropriate relationships in the conditions of employment as between different class, category or grade levels and as between other occupations in the government service,
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered, and
- (e) any other factor that to it appears to be relevant to the matter in dispute.

**Contents of awards**

**174.**(1) Subject to this section, an arbitral award may deal with

- (a) compensation, including rates of pay and procedures relating to the administration thereof, and
- (b) hours of work, leave entitlements and other terms and conditions of employment directly related thereto.

(2) No arbitral award shall deal with any term or condition of employment, the inclusion of which in a collective agreement is prohibited by subsection 156(1), with standards, procedures or processes governing the appointment, promotion, demotion, transfer, lay-off or work performance evaluation of employees, with the release or discipline of employees, with the assignment of duties of employees, with the grades or categories of certificates of qualification to be assigned to those employees or with any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof.

(3) An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made.

**Joint request for special arbitration**

**175.** Notwithstanding anything in this Part, the parties may jointly request the board to refer to arbitration any matter, and an arbitral award made pursuant to such request shall be binding on the parties in accordance with any agreement in respect of the request.

**Form of award**

**176.** An arbitral award shall, wherever possible, be made in such form

- (a) as will be susceptible of being read and interpreted with, or annexed to and published with, any collective agreement dealing with other terms and conditions of employment of the employees in the bargaining unit in respect of which the arbitral award applies, and
- (b) as will enable its incorporation into and implementation by regulations, bylaws, directives or other instruments that may be required to be made or issued by the employer or the relevant bargaining agent in respect thereof.

**Binding effect of award**

**177.**(1) An arbitral award is, subject to and for the purposes of this Part, binding on the employer and the bargaining agent that is a party thereto, and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on which the award is rendered or such later day as the arbitrator may determine.

(2) A provision of an arbitral award made in respect of a term or condition of employment may be retroactive to the extent that it is capable of being retroactively applied, in whole or in part, to a day prior to the day on and from which the arbitral award becomes binding on the parties but not before the day on which notice to bargain collectively was given by either party.

(3) Where the arbitrator determines that a provision of an arbitral award shall be retroactively applied, that provision shall, for the retroactive period specified in the arbitral award, displace any term or condition in a previous collective agreement or arbitral award with which it is in conflict.

**Duration of award**

**178.**(1) The arbitrator may, in respect of every arbitral award, determine and specify therein the term for which the arbitral award is to be operative and, in making its determination, it may take into account

- (a) where a collective agreement applicable to the bargaining unit is in effect or has been entered into but is not yet in effect, the term of that collective agreement, and
- (b) where no collective agreement applying to the bargaining unit has been entered into
  - (i) the term of any previous collective agreement that applied to the bargaining unit, or
  - (ii) the term of any other collective agreement that to the arbitrator appears relevant,

but where the arbitrator does not determine and specify the term of an arbitral award, the term applicable shall be the term referred to in paragraph (a).

(2) No arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (1)(a) or (b), shall be for a term of less than one year or more than two years from the day on and from which it becomes binding on the parties.

(3) The board may, upon application made by both parties to an arbitral award, terminate the award before it ceases to have effect according to its terms.

**Implementation of award**

**179.** The provisions of an arbitral award shall, subject to the appropriation under the authority of the Legislature of any money that may be required by the employer therefor, be implemented by the parties within a period of 90 days from the date on and from which it becomes binding on the parties or within such longer period as may be agreed upon by the parties or as may, on application by either party, appear reasonable to the board.

**Reference back to arbitrator**

**180.** Where a statement has been annexed to a notice pursuant to subsection 166(3) and the parties subsequently are unable to reach agreement on terms or conditions of employment that were conditionally agreed to by the parties, either party may, within 30 days after receipt

by it of the award of the arbitrator, or within such longer period as may be agreed upon by the parties, refer back to the arbitrator any term or condition in the statement that may be dealt with in an arbitral award, and the arbitrator shall thereupon deal with such term or condition in the manner provided in section 172.

### **Revision of award by agreement**

**181.** The parties to an arbitral award may agree to a revision of any provision of such award other than a provision relating to its duration.

## **GRIEVANCES**

### **Grievance procedure**

**182.(1)** Subject to subsection (2) and sections 80 to 85, where any employee feels himself to be aggrieved

- (a) by the interpretation or application in respect of him of
  - (i) a provision of an Act, or of a regulation, direction or other instrument made or issued by the employer, dealing with terms and conditions of employment, or
  - (ii) a provision of a collective agreement or an arbitral award, or
- (b) as a result of any occurrence or matter affecting his terms and conditions of employment, other than a provision described in clause (a)(i) or (ii),

he is entitled to present the grievance at each of the levels, up to and including the final level, in the grievance process provided by this Act.

(2) An employee is not entitled to present any grievance relating to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award unless he has the approval of and is represented by the bargaining agent for the bargaining unit to which the collective agreement or arbitral award applies.

(3) For the purposes of any provision of this Act respecting grievances, where a grievance was submitted prior to the death of an employee, a reference to an employee includes the personal representative of a deceased employee or a former employee.

### **Appointment of adjudicators**

**183.(1)** The chairperson shall, after consultation with the employer and the bargaining agent, appoint such persons to be called adjudicators as may be required to hear and adjudicate upon grievances referred to adjudication under this Act.

(2) A person is not eligible to act as an adjudicator if he would not be eligible to be a member of the board pursuant to subsection 122(1).

(3) No person shall act as an adjudicator in respect of any matter if he has at any time since a day six months before the day of his selection acted in respect of any matter concerning employer-employee relations as lawyer or agent of the employer or of any employee organization that has an interest in the matter in respect of which he was selected as an adjudicator.



(4) An adjudicator appointed pursuant to this section has in relation to the hearing of any grievance referred to him under this Act the power

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as he deems requisite to the full investigation and consideration of matters within his jurisdiction in the same manner and to the same extent as a judge of the Supreme Court,
- (b) to administer oaths and affirmations, and
- (c) to receive and accept such evidence and information on oath, affidavit or otherwise as in his discretion he sees fit, whether admissible in a court of law or not.

(5) Where a grievance is referred to adjudication, the adjudicator shall give both parties to the grievance an opportunity of being heard.

(6) After considering the grievance, the adjudicator shall render a decision thereon and

- (a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and
- (b) deposit a copy of the decision with the chairperson.

#### **Requirement for consent of employee**

**184.** Where the parties have provided in a collective agreement for a bargaining unit that the bargaining agent may present on behalf of an employee in the bargaining unit a grievance with respect to the interpretation or application in respect of the employee of a provision of a collective agreement or arbitral award, the bargaining agent shall not be entitled to present such a grievance on behalf of the employee if the employee objects thereto in the prescribed manner and within the prescribed time.

#### **Representation of employee by employee organization**

**185.** No employee who is included in a bargaining unit for which an employee organization has been certified as bargaining agent may be represented by any employee organization, other than the employee organization certified as such bargaining agent, in the presentation or reference to adjudication of a grievance.

#### **Grievance by employer or bargaining agent**

**186.** Where the employer and a bargaining agent have executed a collective agreement or are bound by an arbitral award and

- (a) the employer or the bargaining agent seeks to enforce an obligation that is alleged to arise out of the collective agreement or arbitral award, and
- (b) the obligation, if any, is not an obligation the enforcement of which may be the subject of a grievance of an employee in the bargaining unit to which the collective agreement or arbitral award applies,

the employer or the bargaining agent may, in prescribed manner, present a grievance to the bargaining agent or the employer.

**Representation of dismissed employee**

**187.**(1) Where an employee presents an appeal against his suspension or dismissal to the superintendent pursuant to section 81 or to an adjudicator pursuant to section 85, the employee may, with his consent be represented by the bargaining agent.

(2) Any grievance with respect to an employee's suspension or dismissal shall be in accordance with the administrative procedures in sections 80 to 89.

**Referral of grievance to adjudication by employee**

**188.**(1) Subject to subsection (3), where an employee has presented a grievance up to and including the final level in the grievance process or an appeal under section 85

- (a) with respect of the interpretation or application in respect of him of a provision of a collective agreement or arbitral award, or
- (b) has appealed his dismissal or suspension pursuant to section 84

and his grievance or appeal has not been dealt with to his satisfaction, he may refer his grievance to adjudication.

(2) Where a grievance that may be referred by an employee to adjudication is a grievance relating to the interpretation or application of a provision of a collective agreement or arbitral award, the employee is not entitled to refer the grievance to adjudication unless the bargaining agent for the bargaining unit in which the employee is included signifies in the prescribed manner its approval of the reference of the grievance to adjudication and its willingness to represent the employee in the adjudication proceeding.

(3) An employee on probation shall not be entitled to refer to adjudication a grievance in respect of his rejection during his probationary period.

**Requirement for consent of employee**

**189.** Section 188 applies, with such modifications as the circumstances require, to grievances presented by a bargaining agent on behalf of an employee in accordance with section 184.

**Requirement for exhaustion of other procedures**

**190.**(1) Except with the consent of the board, no grievance shall be referred to adjudication and the adjudicator shall not hear, or render a decision on, a grievance until all procedures prescribed under this Act for the presentation of the grievance have been complied with.

(2) The adjudicator shall not render any decision in respect of any grievance, the effect of which would be to require the amendment of a collective agreement or an arbitral award.

(3) Where

- (a) a grievance has been presented up to and including the final level in the grievance process, and
- (b) the grievance is not one that under section 188 may be referred to adjudication,

the decision on the grievance taken at the final level in the grievance process is final and binding for all purposes of this Act and no further action under this Act may be taken thereon.

**Effect of notice to bargain on adjudication**

191.(1) Where either party to a collective agreement or arbitral award has given notice under subsection 153(2), a grievance in respect of any term or condition of employment of an employee or any right or privilege of the bargaining agent that was embodied in the collective agreement or arbitral award the alteration of which is prohibited by subsection 154(2) may be referred to adjudication and determined by the adjudicator during the period for which alteration is prohibited by subsection 154(2) as if the agreement or arbitral award remained in force.

(2) Where a grievance is presented within the time prescribed by the board for the presentation of grievances, subsection (1) shall apply notwithstanding that the grievance is presented at the first level of the grievance process after the expiration of the period during which alteration is prohibited by subsection 154(2).

**Adjudicator to decide penalty**

192. Where a grievance described in paragraph 188(1)(b) is referred to adjudication, the adjudicator may determine the remedial action if any that, in his opinion, is appropriate in the circumstances, and the adjudicator may direct that such action be taken.

**Adjudicator may substitute penalty**

193. Where a grievance described in paragraph 188(1)(b) is referred to adjudication and the adjudicator determines that an employee has been discharged or disciplined by the employer for cause, the adjudicator has power to substitute for the discharge, suspension or discipline such other penalty as to the adjudicator seems just and reasonable in the circumstances.

**Reference to adjudication by employer or bargaining agent**

194.(1) Where the employer or the bargaining agent has presented a grievance pursuant to section 186 and the grievance has not been dealt with to its satisfaction, it may refer the grievance to adjudication.

(2) Where the employer and the bargaining agent have executed a collective agreement or are bound by an arbitral award, the employer or the bargaining agent may refer to adjudication any question as to the interpretation or application in respect of employees in the bargaining unit of the collective agreement or arbitral award and the adjudicator may, if he considers it appropriate, make a declaratory determination of such question.

**Implementation of adjudicator's decision**

195.(1) Where a decision on any grievance referred to adjudication requires any action by or on the part of the employer, the employer shall take such action.

(2) Where a decision on any grievance requires any action by or on the part of an employee or a bargaining agent or both of them, the employee or bargaining agent, or both, as the case may be, shall take such action.

**Regulations respecting grievances**

196.(1) The Commissioner in Executive Council may on the recommendation of the board make regulations in relation to the procedure for presenting grievances, including, without limiting the generality of the foregoing, regulations respecting

- (a) the manner and form of presenting a grievance;

- (b) the maximum number of levels of officers of the employer to whom grievances may be presented;
- (c) the time within which a grievance may be presented up to any level in the grievance process including the final level;
- (d) the time within which the reply to a grievance may be given at any level in the grievance process including the final level;
- (e) the circumstances in which any level below the final level in the grievance process may be eliminated.

(2) Any regulations made by the Commissioner in Executive Council under subsection (1) in relation to the procedure for presentation of grievances shall apply in respect of employees in the bargaining unit for which a bargaining agent has been certified by the board notwithstanding that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

## **PROHIBITIONS AND ENFORCEMENT**

### **Strikes**

**197.** No employee shall participate in a strike.

### **Incitement to strike**

**198.** No person shall do any act if he knows or ought to know that, as a reasonable consequence of the act, another person or persons will engage in an unlawful strike or an unlawful lockout.

### **Strike action by employee organization**

**199.** No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel or procure the declaration or authorization of a strike of employees or the participation of employees in a strike, the effect of which would be to involve the participation of an employee in a strike in contravention of section 197 or 198.

### **Lockouts**

**200.** No person employed in a managerial capacity, whether or not he is acting on behalf of the employer, shall cause a lockout of any employee or counsel or procure a lockout of any employee.

### **Declaration of unlawful strike**

**201.** Where the employer alleges that an employee organization has declared or authorized a strike, or that employees have participated in, are participating in or likely to participate in a strike, the effect of which was, is or would be to involve the participation of an employee in a strike in contravention of section 197, the employer may apply to the board for a declaration that the strike was, is or would be unlawful, and the board may make such a declaration.

### **Declaration of unlawful lockout**

**202.** Where a bargaining agent alleges that a person employed in a managerial capacity has caused or authorized a lockout of employees in contravention of section 200, the bargaining agent may apply to the board for a declaration that the lockout was, is or would be unlawful, and the board may make such a declaration.

**Prohibited practices**

**203.(1)** No person who is employed in a managerial capacity, whether or not he is acting on behalf of the employer, shall participate in or interfere with the formation or administration of an employee organization or the representation of employees by such an organization.

(2) No person shall

- (a) refuse to employ or to continue to employ any person, or otherwise discriminate against any person in regard to employment or any term or condition of employment because the person
  - (i) is a member of an employee organization,
  - (ii) is engaged in the formation of an employee organization,
  - (iii) is engaged in persuading employees to apply to the board for a declaration that an employee organization certified as bargaining agent for a bargaining unit in which he is included no longer represents a majority of the employees included therein,
  - (iv) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part,
  - (v) has made or is about to make a disclosure that he may be required to make in a proceeding under this Part,
  - (vi) has made or is about to make an application or a complaint or has presented or is about to present a grievance or refer a grievance to adjudication under this Part, or
  - (vii) was or is exercising any other right or freedom under this Part,
- (b) impose any condition on an appointment or in a contract of employment, or propose the imposition of any condition on an appointment or in a contract of employment that restrains, or has the effect of restraining, an employee or a person seeking employment from becoming a member of an employee organization or exercising any right or freedom conferred upon him by this Part, or
- (c) seek, by intimidation, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means to compel a person
  - (i) to become, refrain from becoming or, except as provided in a collective agreement, to cease or continue to be a member of an employee organization,
  - (ii) other than a person to whom subsection 152(1) applies, to refrain from becoming an officer or representative of an employee organization, engaging in the formation of an employee organization or persuading employees to apply to the board for a declaration that an employee organization certified as bargaining agent for a bargaining unit in which he is included no longer represents a majority of the employees included therein,
  - (iii) to refrain from testifying or otherwise participating in a proceeding under this Part,
  - (iv) to refrain from making a disclosure that he may be required to make in a proceeding under this Part,
  - (v) to refrain from making an application or complaint or presenting a grievance or referring a grievance to adjudication under this Part, or
  - (vi) to refrain from exercising any other right or freedom under this Part.

(3) No employee organization and no officer, representative or person acting on behalf of an employee organization shall

- (a) except with the consent of the employer, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become, to refrain from becoming, to continue to be or cease to be a member of an employee organization,
- (b) require the employer to terminate the employment of any employee because he has been expelled or suspended from membership in the employee organization for a reason other than a failure to pay the periodic dues and assessments uniformly required to be paid by all members of the employee organization as a condition of retaining membership in the employee organization,
- (c) expel or suspend an employee from membership in the employee organization or deny membership in the organization to an employee by applying to him in a discriminatory manner the membership rules of the employee organization,
- (d) take disciplinary action against or impose any form of penalty on an employee by applying to him in a discriminatory manner the standards of discipline of the employee organization,
- (e) expel or suspend an employee from membership in the employee organization or take disciplinary action against or impose any form of penalty on an employee by reason of his having refused to perform an act that is contrary to this Act, or
- (f) act in bad faith or in a manner that is arbitrary or discriminatory in representing any employee in the bargaining unit, in the presentation of a grievance or in a reference thereof to adjudication pursuant to this Part whether or not he is a member of the employee organization.

#### **Discrimination against employee organization**

204.(1) No person employed in a managerial capacity, whether or not he acts on behalf of the employer, shall discriminate against an employee organization.

(2) Nothing in subsection (1) shall be construed to prevent a person employed in a managerial capacity from receiving representations from, or holding discussions with, the representatives of any employee organization.

#### **Complaint to board**

205. Subject to section 206, the board shall examine and inquire into any complaint made to it that the employer, an employee organization or any person has failed to observe any prohibition or to comply with any provision contained in this Part or in any regulation made under this Part, or any order or direction made or given by the board.

#### **Time limit for complaints**

206.(1) Subject to this section, a complaint pursuant to section 205 shall be made to the board not later than 90 days from the date on which the complainant knew, or in the opinion of the board ought to have known, of the action or circumstances giving rise to the complaint.

(2) Subject to subsection (3), no complaint shall be made to the board under section 205 on the ground that an employee organization or any person acting on behalf of an organization has failed to comply with paragraph 203(3)(c) or (d) unless

- (a) the complainant has presented a grievance or appeal in accordance with any procedure that has been established by the employee organization, and to which the complainant has been given ready access,
- (b) the employee organization
  - (i) has dealt with the grievance or appeal in a manner unsatisfactory to him, or
  - (ii) has not, within six months from the date on which the complainant first presented his grievance or appeal pursuant to paragraph (a), dealt with his grievance or appeal, and
- (c) the complaint is made to the board not later than 90 days from the first day on which the complainant could, in accordance with paragraph (b), make the complaint.

(3) The board may, on application to it by a complainant, hear a complaint in respect of an alleged failure by an employee organization to comply with paragraph 203(3)(c) or (d) that has not been presented as a grievance or appeal to the employee organization, if the board is satisfied that

- (a) the action or circumstances giving rise to the complaint is such that the complaint should be dealt with without delay, or
- (b) the employee organization has not given the complainant ready access to a grievance or appeal procedure.

#### **Mediation and hearing of complaints by the board**

**207.(1)** Subject to subsection (2), upon receipt of a complaint made under section 205, the board

- (a) may assist the parties to the complaint to settle the complaint, and
- (b) where the board does not act under paragraph (a) or the complaint is not settled within such period as the board considers to be reasonable in the circumstances, shall hear and determine the complaint.

(2) The board may refuse to hear and determine any complaint made pursuant to section 205 in respect of a matter that, in the opinion of the board, could be referred by the complainant to adjudication under section 190 or 191.

#### **Orders respecting complaints**

**208.(1)** Where, under paragraph 207(1)(b), the board determines that any person, employee organization or the employer has failed to observe any prohibition or to comply with any provision, regulation, order or direction as described in section 205, it may make an order addressed to that person, employee organization or employer directing him or it to observe the prohibition, give effect to the provision, regulation, direction or order, or take such action as may be required in that behalf within such specified period as the board may consider appropriate, and

- (a) where an order is directed to a person who has acted or purported to act on behalf of the employer, it shall direct its order as well to the Executive Council Member, and

- (b) where an order is directed to a person who has acted or purported to act on behalf of an employee organization, it shall direct its order as well to the chief officer of that employee organization.

(2) Where, under subsection 207(1), the board determines that a party to a complaint has failed to comply with section 203, the board may by order require the party to comply with that section and may,

- (a) in respect of a failure to comply with paragraph 203(2)(a) or (c) require the employer to
  - (i) reinstate any former employee affected by the failure as an employee of the employer or rescind any disciplinary action in respect of an employee, and
  - (ii) pay to any employee or former employee affected by the failure compensation not exceeding such sum as, in the opinion of the board, is equivalent to the remuneration that would, but for the failure, have been paid by the employer to the employee,
- (b) in respect of a failure to comply with paragraph 203(3)(c) or (e), by order require an employee organization to reinstate or admit an employee as a member of the employee organization,
- (c) in respect of a failure to comply with paragraph 203(2)(a) or (c), by order require an employee organization to rescind any disciplinary action taken in respect of and pay compensation to any employee affected by the failure, not exceeding such sum as, in the opinion of the board, is equivalent to any pecuniary or other penalty imposed on the employee by the employee organization, and
- (d) in respect of a failure to observe the prohibition in paragraph 203(3)(f), by order
  - (i) permit the employee to present a grievance and refer the grievance to adjudication without the approval of or representation by the bargaining agent referred to in subsection 182(2) or 188(2), and
  - (ii) require an employee organization to pay to any employee or former employee affected by the failure compensation not exceeding such sum as, in the opinion of the board, is equivalent to any pecuniary loss that the employee or former employee sustained by reason of the failure.

(3) Where, under subsection 207(1), the board determines that the employer has failed to comply with subsection 154(2), the board may by order require the employer to comply with that section and may also require it to take such other remedial action as the board may consider appropriate.

#### **Defiance of board order**

**209.** Where any order made under section 207 directs some action to be taken and is not complied with within the period specified in the order for the taking of such action, the board shall forward to the Executive Council Member a copy of its order, a report of the circumstances and all documents relevant thereto, and the copy of the order, the report and the relevant documents shall be laid by the Executive Council Member before the Legislative



Assembly within 15 days after receipt thereof by him if the Legislative Assembly is then sitting, or if the Legislative Assembly is not then sitting the Executive Council Member shall forward to each of the members a copy of the order and the report and lay a copy of the order, report and relevant documents before the Legislative Assembly at its next sitting.

#### **Offence by employee and employee organization**

**210.**(1) Every employee who contravenes section 197 or section 198 commits an offence and is liable on summary conviction to a fine not exceeding \$100.

(2) Every officer or representative of an employee organization who contravenes section 199 commits an offence and is liable on summary conviction to a fine not exceeding \$300.

(3) Every employee organization that contravenes section 199 commits an offence and is liable on summary conviction to a fine not exceeding \$150 for each day that a strike declared or authorized by it in contravention of that section is or continues in effect.

#### **Offence by manager**

**211.**(1) Every person employed in a managerial capacity who, by causing a lockout of any employee, contravenes section 200 commits an offence and is liable on summary conviction to a fine not exceeding \$150 for each day that the lockout is or continues in effect.

(2) Every person employed in a managerial capacity who counsels or procures a lockout in contravention of section 200 commits an offence and is liable on summary conviction to a fine not exceeding \$300.

#### **Responsibility of employee organization**

**212.** A prosecution for an offence under section 199 may be brought against an employee organization and in the name of that organization, and for the purposes of any such prosecution, an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the scope of his authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization.

#### **Requirement of consent of board for prosecutions**

**213.**(1) Except with the consent of the board, no prosecution shall be instituted in respect of any offence under this Part.

(2) Before consenting to the institution of a prosecution, the board may consult with the parties, make such inquiries or hold such hearings as in its discretion it considers desirable.

### **GENERAL**

#### **Filing of collective agreements**

**214.** Each party to a collective agreement shall, forthwith after its execution, file a copy of the collective agreement with the board.

**Effect of board decisions**

**215.(1)** Subject to section 132, every order, award, direction, decision, declaration or ruling of the board is final and shall not be questioned or reviewed in any court, except in accordance with section 216.

(2) Subject to subsection (1), no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the board in any of its proceedings under this Part.

**Appeal to Court of Appeal**

**216.(1)** The Court of Appeal has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi judicial basis, made by or in the course of proceedings before the board, upon the ground that the board

- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction,
- (b) erred in law in making its decision or order, whether or not the error appears on the face of the record, or
- (c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

(2) Any such application may be made by the Executive Council Member or a bargaining unit or any party directly affected by the decision or order by filing a notice of the application within ten days of the time the decision or order was first communicated to the Executive Council Member or the bargaining agent or to that party by the board, or within such further time as the court or a judge thereof may allow either before or after the expiry of those ten days.

(3) The board may at any stage of its proceedings refer any question or issue of law or jurisdiction to the Court of Appeal for hearing and determination.

(4) An application or reference to the Court of Appeal made under this section shall be heard and determined without delay and in a summary way.

**Service of documents**

**217.(1)** A decision, determination, order, direction, declaration, ruling or award of the board

- (a) if sent by registered mail to a person, an employee organization or the employer addressed to him or at his or its last known address, shall be deemed to have been released on the second day after the day on which it was so mailed, and
- (b) if delivered to a person, an employee organization or the employer at his or its last known address, shall be deemed to have been released on the day next following the day on which it was so delivered.

(2) Proof by a person, employee organization or the employer of failure to receive a determination, order, direction, declaration, ruling or award or a notice or report sent in the manner described in paragraph (1)(a), is a defence by such person, employee organization or

the employer to an application for consent to institute a prosecution or to any proceedings to enforce an order of the board pursuant to section 200.

**Privilege**

218. No member of the board and no mediator or officer or employee of, or person appointed by the board or by the chairperson, shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Part.

**Witness expenses**

219. A person who is summoned by the board to attend as a witness in any proceeding taken under this Part, and who so attends, is entitled to be paid an allowance for expenses and a witness fee, determined in accordance with the scale for the time being in force with respect to witnesses in civil suits in the Supreme Court.

**Oaths of office**

220. A person appointed under this Part shall, before entering upon his duties, take an oath or affirmation in the form prescribed by the chairperson before any person authorized to take such oath or affirmation.

**Remuneration and expenses of officials**

221. Every person who acts as a mediator or who functions under this Part in any other capacity at the request of the chairperson shall be paid such remuneration and expenses as may be fixed by the Commissioner in Executive Council on the recommendation of the chairperson.

**Public Service Superannuation Act (Canada)**

222. Unless the Commissioner in Executive Council otherwise orders in any case or class of cases, a person appointed under this Part shall be deemed not to be employed in the public service for the purpose of the Public Service Superannuation Act (Canada).

**Annual report**

223. As soon as possible after the end of each year, the board shall prepare and submit to the Executive Council Member a report on the administration of this Part during that year, and the Executive Council Member shall lay the board's report before the Legislative Assembly within 15 days after receipt thereof or, if the Legislative Assembly is not then sitting, on any of the first 15 days next thereafter that the Legislative Assembly is sitting.

**Effect of adjudicator's decisions**

224.(1) Every order, award, direction, decision, declaration or ruling of an adjudicator is final and shall not be questioned or reviewed in any court, except in accordance with section 225.

(2) Subject to subsection (1), no order shall be made or process entered or proceeding taken in any court whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain an adjudicator in any of his proceedings under this Part.

**Appeal to Supreme Court**

225.(1) The Supreme Court has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi judicial basis, made by or in the course of proceedings before an adjudicator, upon the ground that the adjudicator

- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise his jurisdiction,
- (b) erred in law in making his decision or order, whether or not the error appears on the face of the record, or
- (c) based his decision or order on an erroneous finding of fact that he made in a perverse or capricious manner or without regard for the material before him.

(2) Any such application may be made by the Executive Council Member or a bargaining unit or any party directly affected by the decision or order by filing a notice of the application within ten days of the time the decision or order was first communicated to the Executive Council Member or the bargaining agent or to that party by the adjudicator, or within such further time as the Supreme Court or a judge thereof may allow either before or after the expiry of those ten days.

(3) An adjudicator may at any stage of the proceedings before him refer any question or issue of law or jurisdiction to the Supreme Court for hearing and determination.

(4) An application or reference to the Supreme Court made under this section shall be heard and determined without delay and in a summary way.

**PART 7  
DISTRICT SCHOOLS**

**Interpretation**

226. In this Part,

“board” means the board of school trustees of a school district;

“school” means a district school established under this Part;

“returning officer” means a returning officer appointed pursuant to section 231.

**Establishment of a school district**

227. The Commissioner in Executive Council may on receipt of a petition signed by not less than three taxpayers resident in

- (a) a municipality, or
- (b) an area of not more than 25 square miles that is outside a municipality and in which there are resident not less than four taxpayers and 15 children between the ages of five and 16 years,

establish in that municipality or area a school district.

**Contents of petition**

228. The petition mentioned in section 227 shall state

- (a) the religious faith, that is to say Protestant or Roman Catholic, of each of the petitioners,

- (b) the proposed name of the school district,
- (c) the proposed limits, location and approximate area of the proposed school district, and
- (d) the total number of taxpayers and the total number of children between the ages of five and 16 years, of the religious faith of the petitioners residing within the limits of the proposed district.

#### **Petition to be sworn**

**229.** The petition described in section 227 shall be accompanied by the sworn declaration of one of the petitioners verifying the facts set forth therein.

#### **Establishment of public and separate school districts**

**230.** Where the Commissioner in Executive Council is satisfied that the proposed school district contains

- (a) 15 children of a faith other than the Roman Catholic faith and four residents who, on the establishment of a school district, will be liable for school taxes, he shall establish that district as a public school district, and
- (b) 15 children of the Roman Catholic faith and four residents who, on the establishment of a school district, will be liable for school taxes, he shall establish that district as a separate school district.

### **ELECTION OF SCHOOL TRUSTEES**

#### **Miscellaneous**

**231.(1)** The Commissioner in Executive Council shall, on establishing a school district and as required from time to time, appoint a person who is qualified to vote at an election held under this Part as a returning officer for that district.

(2) The Commissioner in Executive Council shall fix a day for the holding of an election of the first three trustees for a district and such trustees shall hold office until the day in January next following when their successors are sworn in.

(3) All trustees of a school district, other than the first trustees, shall hold office for two years.

(4) No decision of a board of trustees shall be made by a quorum, a majority of which is composed of persons in respect of whose children an annual grant in lieu of school taxes is paid by the Government of Canada.

#### **Notices as to nominations**

**232.** The returning officer shall within ten days from the date of notification of his appointment post notices for the nomination of candidates for the office of trustees in the prescribed form in five public places within the school district.

#### **Qualifications of voters for public school trustees**

**233.** Subject to section 236, every taxpayer resident within a school district is qualified to vote at an election of public school trustees for that district if he

- (a) is a Canadian or other British subject of the full age of 19 years, and

- (b) has fully paid his rates and taxes of all kinds before the day of nomination of candidates.

**Qualifications of voters for public school trustees**

234. Subject to section 236, every spouse of a taxpayer described in section 233 is qualified to vote at an election of public school trustees for a district if that spouse

- (a) is a Canadian or other British subject of the full age of 19 years, and
- (b) is a resident of the school district.

**Qualifications of voters for separate school trustees**

235. Every person described in section 233 or 234 who is of the Roman Catholic faith is qualified to vote at an election for school trustees for a separate school district.

**Co-existing school districts**

236. A person of the Roman Catholic faith is not qualified to vote at an election of school trustees for a public school district if there is a separate school district in the same municipality or area.

**Persons not to vote in two elections**

237. Except in the case of the first election held for school trustees for a separate school district, no person who votes at an election of school trustees for a public school district shall vote at the election of school trustees for a separate school district held in the same year.

**Voters list**

238. The collector of taxes for a municipality or area containing a school district shall prepare a list alphabetically arranged of the names of all taxpayers and their spouses qualified to vote at an election of school trustees and shall certify such list.

**Qualifications of trustees**

239. Subject to this Act, a person is qualified to be a trustee of a school district if he is

- (a) qualified to vote at an election of school trustees for that district, and
- (b) able to read and write in either the French or English language.

**Teachers not to be trustees**

240. No person who is a teacher at any school in the Territory shall be eligible to hold office as a school trustee.

**Nominations**

241.(1) Every candidate for the office of school trustee shall be nominated in writing by two taxpayers of the district.

(2) Except in the case of the first election for trustees held in a district, the nomination papers for a candidate to be a school trustee shall be delivered to the returning officer not later than five o'clock in the afternoon of January 2 or, if that date is a holiday, then before five o'clock of the next day thereafter that is not a holiday.

**Election by acclamation**

**242.** If the number of nominations of candidates for the office of school trustee do not exceed the number of trustees to be elected, the returning officer shall declare the persons nominated to be elected, and shall send to the Executive Council Member a report of their election together with the nomination papers of all persons nominated.

**Polling places**

**243.** Where more nominations are received than the number of trustees to be elected, the returning officer shall provide one polling place for every 250 voters and shall appoint a deputy returning officer and a polling clerk for each polling place.

**Election procedure**

**244.** Subject to this Part, an election held under this Part shall be conducted in the same manner as is provided in the Municipal Act for an election of a member of a municipal council.

**Date of election**

**245.(1)** Subject to subsection (2), all elections for school trustees held under this Part after the first election in a school district shall be held on the 21st day after the day fixed for the nomination of candidates or if such day is a holiday on the next day thereafter that is not a holiday.

(2) If a school district is wholly within a municipality every nomination and election under this Part after the first election shall be held at the same time and place and before the same returning officer as the nomination and elections of members of the council for that municipality.

**Oaths**

**246.** The returning officer, deputy returning officer and the polling clerks shall, before entering upon their respective duties, take and subscribe the prescribed oath.

**Opening and closing of polls and agents of candidates**

**247.(1)** On the day of an election under this Part the deputy returning officer shall open each poll at nine o'clock in the forenoon and keep it open until six o'clock in the afternoon.

(2) Every candidate shall be entitled to be represented at each polling place by an agent who shall produce to the deputy returning officer his appointment signed by the candidate.

**Supplies and voting procedure**

**248.(1)** The returning officer shall provide each deputy returning officer with

- (a) a sufficient number of ballots in the prescribed form,
- (b) necessary material to mark the ballots,
- (c) a polling book which, with such variations as the provisions of this Act make necessary, shall be in the form of the poll book used for an election of members of a municipal council, and
- (d) a copy of the prescribed instructions.

(2) The poll clerk shall write in the poll book the name of each voter presenting himself at the poll for the purpose of voting.

(3) When the name of any person presenting himself to vote is found upon the list of voters and when the proper entries respecting him have been made in the poll book, the deputy returning officer shall write his initials on the back of the ballot paper and deliver it to that person.

#### **Voter's oath**

**249.** Where any objection is made to the right of any person to vote at an election of school trustees, the deputy returning officer shall require that person to take the prescribed oath before delivering a ballot paper to that person.

#### **Counting of ballots**

**250.(1)** At the hour of six o'clock in the afternoon the deputy returning officer shall declare the poll closed and with the assistance of his poll clerk and in the presence of the candidates and their agents, or such of them as are then present, forthwith open the ballot boxes and proceed to examine and count the ballots therein.

(2) Every ballot paper

- (a) that is not initialed by the deputy returning officer,
- (b) on which votes are given to more candidates than are to be elected,
- (c) on which anything is written or marked that appears to have been put there for the purpose of enabling the ballot to be identified as a ballot of a particular voter,
- (d) that is unmarked, or
- (e) from which it is uncertain for which candidates the voter has voted,

shall be void and shall not be counted.

#### **Certificate of votes**

**251.** A deputy returning officer shall, at the request of any candidate or agent of a candidate, give to that candidate or agent a certificate stating the number of votes given for each candidate and the number of ballots rejected.

#### **Declaration of election**

**252.(1)** The deputy returning officer shall, after counting the ballots placed in a ballot box, place all the ballots, the poll books, the oaths subscribed to by voters and the voters list in the ballot box, seal it and return it to the returning officer with a written statement of the votes cast for each candidate and the number of ballots rejected.

(2) On receipt of the ballot boxes used in an election the returning officer shall

- (a) add up the votes polled for each candidate,
- (b) declare the three candidates receiving the greatest number of votes elected,
- (c) report the names of the candidates elected to the Executive Council Member, and
- (d) deliver all voters lists, ballot boxes, ballots and oaths subscribed to by voters to the clerk of the municipality, if the school district is in a municipality, or to the Executive Council Member, if the school district is outside the municipality.



**Declaration of trustee**

253. Before a trustee attends his first meeting with the board he shall make the following declaration before a justice of the peace or commissioner for oaths: "I ..... do hereby accept the office of trustee for the school district to which I have been elected and I will, to the best of my ability, honestly and fairly discharge the duties devolving on me as trustee."

**Election of officers**

254.(1) The trustees of a school district shall within ten days after the date of their election meet and choose one of their number as chairperson and shall appoint a secretary and a treasurer or secretary-treasurer who shall be paid such remuneration as the board may fix.

(2) In case of the absence of the chairperson at any meeting of the board the trustees present shall elect one of their number to act as chairperson of the meeting.

**Incorporation**

255. The trustees of every school district shall be a corporation under the name "The Board of Trustees for the ..... School district No. .... of the Yukon", the number of the school district to be established by the Commissioner in Executive Council.

**MEETINGS OF TAXPAYERS**

**Annual taxpayers meeting**

256. An annual meeting of the taxpayers of every school district shall be called by the board not later than the first Tuesday of September in each year and shall commence at the hour of eight o'clock in the afternoon.

**Notice of annual meeting**

257. The board shall at least eight days before the day for which the annual meeting is called post notices giving the day, place and hour of the meeting in five conspicuous places within the district, one of which shall be the post office for that district, and if there is no post office for that district a sixth notice shall be posted in the post office nearest to that district.

**Chairperson**

258.(1) The chairperson of the board shall be the chairperson of the annual meeting and in the absence of the chairperson the taxpayers present shall elect one of their number to preside.

(2) The chairperson shall not vote on any question except in the case of a tie.

(3) It shall be the duty of the chairperson of the board

- (a) to have the general supervision of the affairs of the district,
- (b) to certify all accounts against the district passed by the board before such accounts are paid by the Treasurer,
- (c) to countersign all cheques issued by the Treasurer on behalf of the district,
- (d) to execute agreements with teachers and to procure the execution thereof by teachers, and
- (e) to designate one of the trustees as his deputy empowered to act in his absence or in the event the chairperson is unable or unwilling to act.

**Business of annual meeting**

**259.** The business of the annual meeting shall be conducted in the following order:

- (a) the reading and adopting of minutes of the last annual meeting;
- (b) the reading and considering of a statement of the teacher signed by him and giving the following particulars:
  - (i) the number of days on which school was kept open in each term since the last annual meeting;
  - (ii) the total number of children attending school during that period, specifying the number of males and females;
  - (iii) the number of children of school age residing in the district who did not attend school during the year;
  - (iv) the average daily attendance of pupils for each term and for the year;
  - (v) the classification of pupils and the number of pupils in each class;
  - (vi) the subjects taught in the school and the number of children studying each subject;
  - (vii) the number of pupils suspended or expelled for misbehaviour or other causes;
  - (viii) the date on which the public examination of the school was held and the number of visitors present;
- (c) the reading and considering of a statement prepared by the trustees giving the following particulars:
  - (i) the names of the trustees;
  - (ii) the officers of the district appointed by the trustees and the salaries paid to those officers;
  - (iii) vacancies created in the board during the year, giving the causes therefor and an account of the elections held to fill such vacancies and the results thereof;
  - (iv) the contracts entered into during the year by the board as well as an account of those entered into by its predecessors;
  - (v) the number of regular and special meetings of the board held during the year together with a statement showing the number of meetings attended by each member;
  - (vi) the number of visits made by each member of the board to the school while it was in operation;
- (d) the reading and considering of the treasurer's statement for the fiscal year ending on March 31 preceding the annual meeting, giving the following particulars:
  - (i) the amount of money received by the district from each source of revenue including government grants whether paid directly or indirectly to teachers in the district;
  - (ii) the amounts of money paid out by the district with particulars as to whom such amounts were paid;
  - (iii) the amount of money due to the district from all sources with particulars as to these sources;
  - (iv) the amount of money due by the district and the terms and times of payment;

- (e) the reading and considering of a statement prepared by the collector of taxes and signed by him giving the following particulars:
  - (i) the total assessed value of all property as shown by the last revised assessment roll;
  - (ii) the total amount of taxes levied during the year;
  - (iii) the rate of the school tax;
  - (iv) the current taxes collected during the year;
  - (v) the arrears of taxes collected during the year;
  - (vi) the total arrears of taxes that are due, together with a statement of the amount owing by each taxpayer;
- (f) the reading and considering of the auditor's report;
- (g) the reading and considering of the superintendent's report received since the last annual meeting;
- (h) such further statements in relation to the affairs of the district as is deemed advisable.

#### **Special meeting of taxpayers**

**260.(1)** A special meeting of the taxpayers in any district may be held at any time for the purpose of considering any matter not otherwise provided for in this Act.

(2) The secretary of the board shall call a special meeting of taxpayers when required to do so by the board, the Executive Council Member or the superintendent or by a notice in writing signed by 25 percent of the taxpayers.

(3) The notice calling a special meeting shall set forth the purpose of the meeting and shall be posted in the manner provided for notices of annual meeting.

#### **Business of special meetings**

**261.** No business shall be considered at a special meeting of taxpayers other than that mentioned in the notices calling the meeting.

### **OPERATION OF SCHOOL BOARDS**

#### **Calling of meetings**

**262.** A meeting of the board may be called by the chairperson or by a trustee.

#### **Notice of meeting**

**263.** Subject to section 264, a meeting of the board shall be called by giving notice in writing to each trustee two days prior to the date of the meeting or in the absence of a trustee from his residence or place of business by leaving such notice with an adult person at the trustee's residence or place of business.

#### **Regular and special meetings of the board**

**264.(1)** The board of any district may at any meeting at which all of the members of the board are present decide by resolution to hold regular meetings of the board; such resolution shall state the day, hour and place of such meeting and no further or other notice of any such meetings shall be necessary.

(2) The board may by unanimous consent recorded in the minutes waive notice of any meeting and hold a meeting at any time.

### **Quorum**

**265.(1)** A majority of the board shall constitute a quorum.

(2) No act or proceeding of a board shall be valid or binding on any party if it is not adopted at a meeting at which a quorum of the board is present.

### **Vacancies on the board**

**266.(1)** Where the number of the trustees of a school district is reduced to one or to none the Commissioner in Executive Council shall appoint a returning officer and fix a day for the election of trustees.

(2) A trustee elected to fill an office declared vacant shall hold office only for the unexpired term of the person in whose place he has been elected.

(3) Notwithstanding subsection (1), where the term of office of a trustee whose seat has been declared vacant is over one-half completed, the Commissioner in Executive Council may appoint a trustee for the remaining period of the term of that office.

### **Questions to be decided by majority of votes**

**267.** At all meetings of the board all questions shall be decided by a majority of votes.

### **Duties of board**

**268.(1)** The board of every school district shall

- (a) appoint a chairperson, a secretary and treasurer or a secretary-treasurer and such other officers as are required by this Act,
- (b) procure a corporate seal for the district,
- (c) see that all the reports and statements required by this Act or by the superintendent are transmitted to the Executive Council Member without delay,
- (d) keep a record of the proceedings of each meeting of the board signed by the chairperson and secretary, see that true accounts of the schools in the district are kept, and see that the affairs of the district are conducted in the manner provided by this Act and with due regard to efficiency and economy,
- (e) provide the officers of the board with the books necessary for keeping proper records of the district,
- (f) take possession of, and have the custody and safe keeping of, all the property of the district,
- (g) purchase or rent school premises, repair, furnish and maintain the school buildings, furniture, fences and all other school property, keep the wells, washrooms and premises of each school in a proper sanitary condition, make due provision for proper lighting, heating, ventilating and cleaning each school and if it deems it advisable, purchase or rent premises for a residence for teachers of each school and repair and maintain order in such residence,
- (h) provide wholesome drinking water for the use of the children in each school,
- (i) provide suitable sanitary facilities for the children and teachers in each school,

- (j) keep insured the school buildings and equipment,
- (k) provide a suitable library for each school and make regulations for its management and use,
- (l) provide from the list authorized by the Commissioner in Executive Council all reference books required for the use of pupils and teachers in each school and all such apparatus as is required for the proper instruction of pupils in each school,
- (m) require that no text books or apparatus be used in a school other than those authorized by the superintendent,
- (n) exempt either in whole or in part any indigent persons resident within the district from the payment of school taxes and where necessary provide the children of such persons with text books and other supplies at the expense of the district,
- (o) see that the school is conducted in accordance with the requirements of this Act and of the Commissioner in Executive Council,
- (p) discipline as it sees fit any pupil who, upon investigation by the board, is found to be guilty of truancy, open opposition to authority, habitual neglect of duty, the use of profane or improper language or other conduct injurious to the moral tone or well-being of the school,
- (q) engage and employ, subject to any regulations made by the Commissioner in Executive Council relating to qualifications and working conditions, all teachers, principals, vice-principals and other personnel necessary for the efficient operation of the school,
- (r) suspend or dismiss any teacher, principal or vice-principal for gross misconduct, neglect of duty or refusal or neglect to obey any lawful order of the board or superintendent or any regulation of the Commissioner in Executive Council,
- (s) make regulations for the management of the school,
- (t) settle disputes arising in relation to the school between the parents or children and teachers,
- (u) provide and see that any law with reference to compulsory education and truancy is observed,
- (v) provide equipment and supplies for the noon lunch and such equipment and appliances for school sports and games as may be deemed desirable by the school board, and
- (w) designate the head teacher as principal of any school where more than one teacher is employed and in any school with an enrolment of more than 250 pupils designate a vice-principal.

(2) The principal shall with the concurrence of the board be responsible for the administration, organization and general discipline of the school.

(3) The vice-principal of a school shall perform the duties assigned to him by the principal, and if the principal is absent or unable to act or if the office is vacant the vice-principal has and may exercise all the powers of the principal.

(4) The parent or lawful guardian of any child residing outside the limits of any district may apply to the board for the admission of such child to its school and the board may, after due consultation and agreement with the superintendent enroll such child in its school subject to satisfactory financial arrangements being negotiated.

**Duties of the secretary**

**269.** The secretary or secretary-treasurer of the board shall

- (a) keep a full and correct record of the proceedings of every meeting of the board and see that the minutes when approved are signed by the chairperson,
- (b) conduct and preserve the correspondence of the board as he is directed by the board,
- (c) have charge of and keep on record all the books, papers, accounts, assessment rolls, plans and maps committed to his charge by the board during his term of office and deliver the same to the chairperson on ceasing to hold office,
- (d) faithfully prepare and duly transmit to the Executive Council Member such reports, statements and other information in regard to the district as is from time to time required by the Executive Council Member or the superintendent and in such form as is prescribed by the superintendent,
- (e) at the request in writing of the chairperson or any trustee, call meetings of the board,
- (f) produce the minutes and other books, assessment rolls and all papers and other records of the board for inspection when required by the superintendent so to do,
- (g) prepare the statement of the trustees to be presented at the annual meeting of the taxpayers,
- (h) at any annual or special meeting of the taxpayers produce the minute book of the district completed to the date of the meeting and give the taxpayers an opportunity to examine the same, and
- (i) give the notice required by this Act of each annual meeting of the taxpayers, and call, within seven days of the date of receipt of the request, special meetings of the taxpayers as provided in section 260.

**Duties of the treasurer**

**270.** The treasurer or secretary-treasurer of the board shall

- (a) before entering upon his duties give security to the board satisfactory to it in the form of a guarantee bond from any guarantee company authorized to do business in Canada, in the amount of any money for which the treasurer may at any time be responsible,
- (b) receive all money payable to the district and disburse such money in the manner directed by the board,
- (c) pay all accounts owing by the district after they are certified by the chairperson of the board,
- (d) keep a complete and detailed account of all money received and disbursed for school purposes, including government grants that may have been paid directly to teachers in the district,

- (e) when called for by the trustees, auditor, superintendent of schools or other competent authority, produce all books, papers and money belonging to the district and hand over to the trustees or any person named by them all such books, papers and money upon ceasing to hold office,
- (f) prepare at the end of each fiscal year ending March 31, a statement of the finances of the district for submission to the annual meeting of the taxpayers,
- (g) prepare and transmit to the superintendent such reports and statements with reference to the finances of the district as are from time to time required by the superintendent and in such form as is prescribed by the superintendent,
- (h) deposit all money of the district forthwith upon receipt thereof in a Canadian chartered bank,
- (i) give and take receipts for all school money received and paid out, and keep on file all supporting vouchers, and
- (j) at any annual or special meeting of the taxpayers produce the account books of the district completed to a date designated by the chairperson of the school board and give the taxpayers an opportunity to examine the same.

#### **Appointment of auditor**

**271.** The Commissioner in Executive Council shall appoint for every school district an auditor who shall audit the books and accounts of the school district in each year prior to the annual taxpayers meeting.

#### **Return and reports**

**272.(1)** The board of every district shall cause to be prepared and transmitted to the superintendent in the form prescribed by him half-yearly and yearly returns respecting the attendance and classification of pupils in the district and the finances of the district.

(2) Where the board of any district neglects or refuses to have prepared and transmitted to the Executive Council Member any returns and reports required by this Act or by the Executive Council Member or superintendent, the trustees through whose neglect or refusal such returns and reports have not been transmitted shall be jointly and severally liable to a penalty of \$10 for each week that the reports and returns are delayed, which amount may be recovered by action in the Supreme Court by any person authorized by the superintendent to bring such action.

#### **Resignation of trustees**

**273.** A trustee may resign by sending a notice in writing to the chairperson of the board and such resignation shall take effect on the election or appointment of another trustee.

#### **Forfeiture of office by trustee**

**274.** A trustee who

- (a) is convicted of an offence under the Criminal Code (Canada),
- (b) becomes insane,
- (c) absents himself from meetings of the board over three consecutive months without the authority of a resolution of the board, or
- (d) ceases to be an actual resident within the district for which he is a trustee,

shall be deemed to have forfeited his seat, and the remaining trustee or trustees shall declare his seat vacant.

**Conflict of interest**

275.(1) No trustee shall have either directly or indirectly any pecuniary interest, profit or expected benefit in or from any contract, agreement or engagement with the school district of which he is a trustee or receive any compensation for any work, employment or duty on behalf of such district except as secretary, treasurer or secretary-treasurer for the district.

(2) A trustee who violates subsection (1) shall be deemed to have forfeited his seat and the remaining trustees shall declare the seat vacant.

**Borrowing for current expenditures**

276. The board of any district may by resolution authorize the chairperson or treasurer to borrow from any chartered bank in Canada a sum, not exceeding 60 percent of the school taxes to be levied for the current year, as required to meet the expenditures of the school district until such time as the school taxes levied for the current year are available, and such loans shall be paid out of and shall be a first charge upon the taxes that are collected for the year in which the loan was made and may be secured by a promissory note given by the chairperson and treasurer on behalf of the board.

**Borrowing for special purposes**

277.(1) The board of any district may, upon receiving the approval of the Executive Council Member, borrow a sum not exceeding \$40,000 for the purpose of securing or improving a school site, or on purchasing, repairing, erecting, furnishing or adding to any school building.

(2) Any amount borrowed pursuant to subsection (1) shall be made repayable in equal annual instalments with interest and may be extended over a period of not more than five years, and any such amount borrowed shall be secured by promissory notes given by the chairperson and treasurer on behalf of the board.

**Assessment, rating and collection of taxes**

278. The provisions of the Assessment and Taxation Act respecting the assessment, rating and collection of taxes shall apply *mutatis mutandis* with respect to the assessment, rating and collection of taxes by a school district.

**Demand on municipality for collection of taxes**

279.(1) Where a district is situate within a municipality the trustees may, after the final revision of the assessment roll of the municipality, make a demand on the council of that municipality for the amount of money required for school purposes for the then current year, but such amount shall not exceed an amount equal to 25 mills on the dollar according to the last revised assessment roll of the property liable for assessment in that district for ordinary school purposes, with such additional amount as may be necessary to meet any indebtedness that has been incurred and is coming due, and such sum shall be assessed and collected as the rates of the municipality.

(2) Subject to this Act, the property liable to assessment and taxation for school purposes shall be the property liable to assessment for taxation for municipal or Government of the Yukon purposes.



**Assessment for separate schools**

**280.(1)** Where a separate school district is established by the Commissioner in Executive Council, the assessor shall add a column to the assessment roll in which he shall state the religion, whether Protestant or Roman Catholic, of the person assessed.

(2) Where in a separate school district property is held by two or more persons as joint tenants or tenants in common who are of different religious faiths, the holders of such property shall be assessed in proportion to their respective interests in the property.

(3) Where a separate school district is established by the Commissioner in Executive Council, the taxpayers of that district shall be liable only for the payment of such school taxes they impose upon themselves in respect of that school.

**Property of corporations**

**281.(1)** A corporation may, by notice given to the clerk of a municipality in which a separate school district is situated, to the secretary of the board of any public school district in the same district and to the secretary of the board of such separate school district, require any part of the real property of which that corporation is either the owner or occupant that is liable to assessment, to be entered, rated and assessed for the purpose of the separate school district and the assessor shall thereupon enter the corporation as a separate school supporter in the assessment roll in respect of that property.

(2) The notice described in subsection (1) shall be taken as continuing in force and to be acted upon by the clerk of the municipality until such time as the corporation vacates the property or so notifies the clerk.

(3) Every notice described in subsection (1) shall be kept by the clerk of the municipality on file in his office and shall during the business hours of the clerk's office be open to inspection and examination by any person entitled to examine or inspect the assessment roll.

(4) A corporation giving a notice described in subsection (1) that contains false statements therein is liable on summary conviction to a penalty not exceeding \$500, and any person giving such notices on behalf of a corporation knowing it to contain false statements commits an offence and is liable on summary conviction to a fine of \$500 or to imprisonment for three months, or both fine and imprisonment.

(5) Where a corporation that is either the owner or occupant of real property in a separate school district that is liable to assessment under this Act for school purposes does not file a notice pursuant to subsection (1), the assessor shall enter the corporation as a separate school supporter in the assessment roll in respect of a portion of its total real property so assessable and situate in that separate school district that is the same fraction of the total of all its real property assessable under this Act situate in that separate school district as the number of children enrolled on the last school day of January of the year in respect of which the assessment is made in all schools operated by that separate school district is of the number of children enrolled on that same day in all schools, whether Yukon or district, in the area comprising that separate school district.

**Executions against boards**

**282.**(1) A writ of execution against the board of any district may be endorsed with the direction to the sheriff to levy the amount thereof by rate, and the procedure therein shall be as follows:

- (a) the sheriff shall deliver a copy of the writ and endorsement to the treasurer or leave such copy at the office or dwelling house of the treasurer together with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including interest calculated to the day of service;
- (b) if the amount described in paragraph (a) is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment roll of the district and shall, in like manner as rates are struck for general school purposes, strike a rate on the dollar on the assessable property in the district sufficient to cover the amount due on the execution, with such additional amount as the sheriff deems sufficient to cover the interest and his own fees up to the time when such rate will be available;
- (c) after striking a dollar rate on the assessable property in the district, the sheriff shall issue an order under his hand and seal of office directed to the treasurer of the district and shall by such order, after reciting the writ and that the board had neglected to satisfy the amount of the execution, command the treasurer to levy or cause to be levied the rate struck by the sheriff at the time and in the manner by law required in respect of general school rates;
- (d) the treasurer shall at the time of levying the annual rate after receipt of the sheriff's order add a column to the tax roll in the said district headed "Execution rate A. B. vs trustees of School district .....", or by adding a column for each execution if there is more than one, and shall insert therein the amount required by the sheriff's order to be levied upon each person respectively, and the treasurer shall, as soon as the amount of the execution or executions is collected, return to the sheriff his order with the amount levied thereon;
- (e) the sheriff shall, after satisfying the executions and all fees thereon, return any surplus paid by the treasurer within ten days after receiving the same to the treasurer for the general purposes of the district.

(2) The treasurer of a school district shall, for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Act with respect to executions against a district, be deemed to be an officer of the court out of which the writ issued and as such shall be amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel him to perform the duties imposed upon him.

(3) In this section, "treasurer" means

- (a) in the case of a school district situate within a municipality, the treasurer of the municipality, and
- (b) in the case of a school district situated outside a municipality, the Treasurer under the Financial Administration Act.

**Tuition fees**

**283.**(1) No school board shall charge tuition fees unless the parents or guardian of a pupil in attendance at school in the district resides outside the district.

(2) The tuition fees charged by a school board shall be the fees prescribed by the Commissioner in Executive Council.

**Liability of board and members**

**284.** Any board or any member thereof that wilfully neglects or refuses to exercise or to assist in exercising all the powers vested in such board by this Act for the fulfilment of any contract or agreement made by it is personally responsible for the fulfilment of that contract or agreement.

**Liability of trustees for debts**

**285.** Where the board of any district

- (a) wilfully contracts liabilities in the name of the district other than as provided in this Act, or
- (b) appropriates any money of the district for purposes other than as provided in this Act, the treasurer of the district or any other person authorized by the Executive Council Member may recover from the members of that board, either jointly or severally, the amount over and above the amount provided by this Act for which the district has been rendered liable through the action of the board as a debt in any court of competent jurisdiction.

**Liability of board**

**286.** The members of a board failing to take a guarantee bond from its treasurer shall be jointly and severally liable for any default of that treasurer to the extent of the sum for which such bond should have been taken, but where on the demand of any trustees the majority of the board refuses or neglects to take the guarantee bond from the treasurer, such demand shall be recorded in the minutes of the board and that trustee shall be relieved from all personal liability in the case of any default of the treasurer.

**Penalty for false reports**

**287.** Every trustee who knowingly signs a false report or knowingly makes a false return commits an offence and is liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding three months, or to both fine and imprisonment.

**Penalty for retaining money or books**

**288.** Every trustee, officer or employee of a board who, after ceasing to hold office, retains any money, book, paper or thing belonging to a board after having received notice in writing from the chairperson of the board or from the Executive Council Member requiring him to deposit the same in the hands of a person named in such notice commits an offence and is liable on summary conviction to a fine not exceeding \$200 for each day during which he wrongfully retains possession of such money, book, paper or thing and in default of payment of that fine, to imprisonment for a term not exceeding 30 days or to both fine and imprisonment.

**Penalty on returning officer for prejudicing results of election**

**289.** Every returning officer of a district who knowingly prejudices the result of any voting by preventing votes from being taken, by taking unlawful votes, by altering returns or books in any way, or by any other means, commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months, or both fine and imprisonment.

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# **CHAPTER 156**

## **SCHOOL TRESPASS ACT**

### **Interpretation**

**1.** In this Act,

“authorized person” means school administration, teaching and maintenance personnel;

“notice” includes notice by word of mouth, in writing, or by sign bearing the words “no trespassing” or words of similar effect;

“premises” includes a building and any land that is used in connection therewith for parking, recreational or other purposes;

“trespass” includes entering or remaining without lawful authority on premises referred to in subsection 2(1).

### **Trespassing prohibited**

**2.(1)** No person shall trespass on the premises of a school, vocational school, university, college, trade school or premises used for other educational purposes, with respect to which he has had notice by an authorized person not to trespass.

(2) For the purposes of subsection (1), a person has notice not to trespass when he has been given notice to refrain from entering or from remaining on any premises and the notice shall be deemed

- (a) to have been given by an authorized person under this Act until the contrary is proved, and
- (b) to continue until it is revoked.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not more than \$1,000 or to imprisonment for not more than 30 days, or both.

### **Trespass by motor vehicle**

**3.(1)** In this section, “motor vehicle” means a vehicle that is designed to be self-propelled in any manner except solely by muscular power.

(2) Where a trespass under section 2 is committed by means of a motor vehicle, the operator of the motor vehicle commmits the offence.

(3) Where the operator of a motor vehicle referred to in subsection (2) is not identified, the owner of the vehicle shall be presumed to be the operator unless the contrary is proved.

(4) For the purposes of subsection (3), in the case of a vehicle rented or leased from a person in the business of renting or leasing vehicles, the owner of the vehicle shall be deemed to be the person to whom the vehicle is rented or leased.

(5) For the purposes of subsection (3), the person in whose name a motor vehicle is registered under the Motor Vehicles Act shall be presumed to be the owner of the vehicle in the absence of evidence to the contrary.

**Arrest of person and seizure of vehicle**

4.(1) A person who is found committing a trespass to which this Act applies may be apprehended without warrant by a peace officer to establish the identity of the person committing the offence for the purposes of a prosecution under this Act, and the person shall be released upon his identity being established.

(2) Where in the opinion of a peace officer an offence under this Act is committed by means of a motor vehicle, he may seize the vehicle on or off the premises without a warrant and retain the vehicle in custody.

(3) A vehicle seized under subsection (2) shall not be released until the costs of the seizure and keeping it in custody have been paid, and if the vehicle remains in custody for more than seven days those costs shall be deemed to be a lien on the vehicle recoverable by the Government of the Yukon in the manner provided as if it were a lien under the Garage Keepers Lien Act.

**Regulations**

5. The Commissioner in Executive Council may make such regulations as he deems necessary for carrying out the purposes and provisions of this Act.

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# CHAPTER 157

## SCIENTISTS AND EXPLORERS ACT

### Licences

1.(1) The Executive Council Member may issue a licence, subject to such conditions as to duration, area or otherwise as he may prescribe, to a person to enter the Yukon for scientific or exploration purposes and to carry out those purposes in the Yukon.

(2) The Executive Council Member may, at any time, for any cause that to him seems sufficient, extend, renew, alter or revoke a licence issued under this section.

### Conditions applicable to all licences

2.(1) In addition to any conditions prescribed with respect to a licence issued under section 1, every licence is subject to the following conditions:

- (a) that the objects of entry of the holder of the licence into the Yukon are exclusively for scientific or exploration purposes and not, in any way, political or commercial;
- (b) that, subject to section 3, the licensee will strictly comply with the provisions of all laws of the Yukon.

(2) Every applicant for a licence shall furnish to the Executive Council Member an accurate statement showing the number, identity and nationality of the persons who will accompany him as well as his own identity and nationality.

(3) The Commissioner in Executive Council may prescribe the fee for any licence issued under this Act.

### No entry without licence

3. No person shall enter the Yukon for scientific or exploration purposes and no person shall carry out such purposes in the Yukon unless he is the holder of a valid licence issued under this Act.

### Returns

4.(1) Every licensee shall, at the close of the scientific or exploration work in respect of which his licence was issued, furnish, in duplicate, to the Executive Council Member

- (a) a statement setting forth the scientific information he has acquired in carrying out the purposes in respect of which the licence was issued,
- (b) a report setting forth the localities visited and the time spent in each locality,
- (c) a descriptive catalogue of all specimens collected,
- (d) copies of all photographs taken and maps and plans made in connection with the work together with explanatory notes, and
- (e) such other information as the Commissioner in Executive Council may prescribe.

(2) Every licensee shall forthwith after being requested by him to do so, furnish to a member of the Royal Canadian Mounted Police or an officer in charge of a government patrol, or other Crown officer, a log of voyages by water taken by the licensee, or information of the route followed on journeys by land or air taken by him, as the case may be, together with full particulars of such voyages or journeys.

**Specimens**

5. The Executive Council Member may require a licensee to submit to him or to such person as the Executive Council Member may designate, any or all of the specimens collected by the licensee, and such specimens may be disposed of in any manner the Executive Council Member thinks fit.

**Regulations**

6. The Commissioner in Executive Council may, from time to time, make rules and regulations for carrying out the purposes and provisions of this Act.

**Offence and penalty**

7. Any person who violates any provision of this Act or the regulations or the conditions of a licence issued under this Act commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

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# CHAPTER 158

## SECURITIES ACT

### Interpretation

1. In this Act,

- “broker” means a person or company who trades in securities but does not include a salesperson;
- “company” means an incorporated company, incorporated association, incorporated syndicate and incorporated organization, wheresoever incorporated, and includes an intended company;
- “individual” means a natural person, but does not include a trustee, partnership, unincorporated association, unincorporated organization, unincorporated syndicate, executor, administrator or other personal legal representative;
- “investment counsel” means any person or company who or that engages in or holds himself out as engaging in the business of advising others as to the advisability of investing in or purchasing or selling specific securities and who or that is primarily engaged in giving continuous advice as to the investment of funds on the basis of the individual needs of each client;
- “official” includes president, chairperson, director, member of a committee, trustee, secretary, treasurer, general manager, departmental or branch manager and any other person in a managerial capacity by whatsoever name called;
- “person” means an individual, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trustee, executor, administrator or other legal personal representative;
- “registrar” means the registrar of securities or any duly authorized person performing his duties under this Act;
- “salesperson” means an individual registered as a salesperson under this Act;
- “security” includes
- (a) any document, instrument or writing commonly known as a security,
  - (b) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company,
  - (c) any document constituting evidence of an interest in an association of legatees or heirs,
  - (d) any document constituting evidence of an option, subscription, or other interest in or to a security,
  - (e) any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificates of share or interest, pre-organization certificate or subscription,
  - (f) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company,
  - (g) any certificate of share or interest in a trust, estate or association,
  - (h) any profit-sharing agreement or certificate,
  - (i) any certificate of interest in an oil, natural gas or mining lease, mineral claim, or royalty voting trust certificate,

- (j) any oil or natural gas royalties or leases or fractional or other interest therein,
- (k) any collateral trust certificate,
- (l) any exploration permit (petroleum and natural gas),
- (m) any income or annuity contract,
- (n) any investment contract, whether any of foregoing relate to a person, proposed company, or company, as the case may be, and
- (o) any plan or agreement (or any certificate, instrument, or writing relating thereto) for the payment of educational costs or other assistance to students, the principal features of which consist of
  - (i) the making of contributions, and
  - (ii) benefits related in whole or in part to the amount and duration of contributions, and
- (p) any claim, mineral claim or mining property, or any interest therein, acquired under the Yukon Placer Mining Act (Canada) or the Yukon Quartz Mining Act (Canada);

“securities adviser” means any person or company who or that engages in or holds himself or itself out as engaging in the business of advising others, either directly or through publications or writings, as to the advisability of investing in or purchasing or selling specific securities;

“security issuer” means a person or company trading only in securities of his or its own issue;

“trade” or “trading” includes any purchase of a security, any solicitation or obtaining of a subscription to or purchase of a security, any sale or disposition of a security, any dealing or transaction in a security and, in the case of a company, includes any allotment, issue or disposition of any of its own securities by option, agreement, sale, resolution, bylaw or otherwise, and in all cases includes anything declared to be included in this definition by the regulations.

### **Exemption of certain trades in securities**

2. Part 1 of this Act shall not apply to

- (a) a trade in a specific security by or on behalf of the owner, for the owner’s account, where the trade is not made in the course of continued and successive transactions of a like nature and is not made by a person or company whose usual business is trading in securities,
- (b) a trade in a security where one of the parties to the trade is registered as a broker under the provisions of this Act and the security is listed on any stock exchange designated by the regulations,
- (c) a trade in a security by a chartered bank, a trust company or an insurance company,
- (d) a trade in a security by an official or employee of Her Majesty in right of Canada or any province, or of any municipality, public board or commission in Canada, in the performance of his duties as such,
- (e) a trade in a security by or for the account of a pledgee or mortgagee for the purpose of liquidating a bona fide debt, where the security was pledged or mortgaged in good faith as security for the debt,
- (f) a trade in a security under a writ of execution or an order of any court, or by an executor, administrator, guardian or committee acting as such, or by a trustee, receiver, or custodian under the Bankruptcy Act (Canada) or by a

receiver under the Judicature Act, or by a liquidator under the Winding-up Act (Canada), the Business Corporations Act (Canada) or the Canada Business Corporations Act (Canada),

- (g) a trade in its own securities by a company that is constituted as a private company under the law under which the company was incorporated and that is entitled to all privileges and exemptions conferred by that law on a private company, where no commission or other remuneration is paid or given in connection therewith, unless the regulations provide that the company shall not be exempted in whole or in part from the application of Part 3,
- (h) a trade in its own securities by a company by way of dividend or distribution of surplus or for the purpose of securing additional capital or funds, if notice thereof is first given to the registrar and the securities are issued or sold exclusively to existing members of the company or holders of its issued securities and where the registrar so requires, proportionately to their holdings or in any other proportion or in any other special manner, if no commission or remuneration is allowed or paid in connection therewith, but subject to all provisions of the regulations enlarging or restricting the application of this paragraph,
- (i) a trade in its own securities by a company in the course of the reorganization of the company and not for the purpose of securing additional capital or funds, except in accordance with the provisions of paragraph (h),
- (j) a trade in its own securities by a company by way of exchange of securities by the company with another company in connection with an amalgamation or consolidation of the companies or a merger of one company in the other company,
- (k) a trade in good faith by a bona fide prospector or miner of a security issued by him to finance a prospecting expedition, or to dispose of any of his interest in a mineral or placer mining claim or property staked by or wholly or partially owned by him,
- (l) a trade by a company in securities secured by mortgage or charge on its property, real or personal, where the entire issue of securities is sold at one time,
- (m) a trade in negotiable bills of exchange or promissory notes or other commercial paper maturing not more than one year from the date of issue and not offered for sale to an individual otherwise than as provided for in paragraph (a) of this section,
- (n) a trade in a security evidencing indebtedness in respect of
  - (i) a contract for the sale of goods under which possession is or is to be delivered to the buyer and the property in the goods is to vest in him at a subsequent time upon performance of any obligation, or
  - (ii) a contract for the hire of goods under which it is agreed that the hirer shall become, or shall have the option to become the owner of the goods upon full compliance with the terms of the contract,

- (o) a trade in securities by a person or company formed solely for benevolent, fraternal, charitable, educational, or recreational purposes, where no part of the net earnings enure to the benefit of any security holder and information relative to the security has first been delivered to the registrar, and
- (p) any class of trade in a security exempted by the regulations.

## PART 1 REGISTRATION

### **Requirement for registration**

3. No person or company shall directly or indirectly act as a broker, security issuer or salesperson unless the person or company holds a certificate of registration therefor under this Act which is in full force and effect.

### **Registration**

4. The registrar shall grant registration or renewal of registration to an applicant where, in the opinion of the registrar, the applicant is suitable for registration and the proposed registration is not objectionable.

### **Restrictions on registration**

5. The registrar may, in his discretion, attach to a registration or renewal of registration such terms, conditions or restrictions as may be deemed necessary by him.

### **Renewals**

6. Every registration lapses on April 30 in each year, and renewal of registration shall be applied for on or before April 1 in each year, giving full particulars of any change in the facts set forth in the latest application form on record with the registrar and enclosing the prescribed fee.

### **Restriction on registration to continue**

7. A registration shall have effect only in respect of bona fide trades entered into during the period for which the registration is in force, and if the certificate of registration provides that any term, condition or restriction shall continue in force, notwithstanding the variation, termination or expiration of the registration, the term, condition, or restriction shall have effect accordingly.

### **Refusal, suspension and cancellation**

8.(1) The registrar may refuse an application for registration or renewal of registration, but if there is material alteration in the proposals a further application may be made, except that no new application shall be receivable by the registrar until after the expiration of one month from the date upon which the last application was refused except for technical errors in the application.

(2) The registrar shall suspend or cancel any registration where in his opinion such action is in the public interest, in which case he shall forthwith notify the registrant of the suspension or cancellation.

**Application form**

9. Every application for registration under this Act shall be made in the prescribed form.

**Further information**

10. The registrar may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, official, director or employee of the applicant or of the registrant to submit to examination under oath by the registrar or a person designated by him in writing.

**Expert assistance**

11.(1) Where the registrar deems it necessary for the due administration of this Act, he may appoint one or more persons to assist him who, in his opinion, are qualified to do so.

(2) The registrar may submit any agreement, prospectus, financial statement, report or other document to a person appointed under subsection (1) for examination, and the registrar or a person designated by him in writing has the like power to summon and enforce the attendance of witnesses before a person appointed under subsection (1) and to compel them to produce documents, records and things as is vested in the registrar.

(3) A person appointed under subsection (1) shall be paid such amounts for services and expenses as may be prescribed.

**Address for service**

12. Every applicant shall state, in an application for registration, an address for service in the Yukon and all notices under this Act or the regulations shall be sufficiently given to or served on the applicant for all purposes of this Act if sent by registered or certified mail addressed to the applicant at the latest address so stated.

**Bond requirements**

13.(1) The registrar may require any applicant or any registered person or company within a specified time to deliver a bond by a surety company approved by the registrar or any other bond in such form and upon such condition and in such amount as the regulations or the registrar shall require.

(2) The registrar may require a new or an additional bond of the kind mentioned in subsection (1) to be filed within a specified time.

**Forfeiture of bonds**

14.(1) Any bond mentioned in section 13 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to the Executive Council Member when there has been filed with the registrar the Executive Council Member's certificate that the person or company in respect of whose conduct the bond is conditioned or any official of such company has, in connection with a trade in a security, been

- (a) convicted of a criminal offence,
- (b) convicted of an offence against any provision of this Act or the regulations,
- (c) enjoined by the court or a judge thereof otherwise than by an interim injunction, or

- (d) a party to civil proceedings as a result of which final judgment has been given against such person, company or official in connection with a trade in a security where such judgment is based upon a finding of fraud.

(2) Any bond mentioned in section 13 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to the Executive Council Member when there has been filed with the registrar a certificate signed by the Executive Council Member that proceedings by or in respect of the person or company in respect of whose conduct the bond is conditioned have been taken

- (a) under the Bankruptcy Act (Canada), or  
(b) in the case of a company, by way of winding-up.

(3) The Executive Council Member may assign any bond forfeit under the provisions of subsections (1) and (2) or may pay over money recovered thereunder to any person or company, or into the Supreme Court in trust for such persons and companies as are or may become judgment creditors of the person or company bonded, or to any trustee, custodian, interim or official receiver or liquidator of such person or company, as the case may be; such assignment or payment over to be in accordance with and upon conditions set forth in the regulations or in any special order of the Executive Council Member.

#### **Appointment of receiver, custodian or liquidator**

15. The Executive Council Member, whenever Her Majesty becomes a creditor of any person or company in respect of a debt arising from the provisions of section 14 and of this section, may take such proceedings as he shall see fit under the Bankruptcy Act (Canada), the Judicature Act, the Winding-up Act (Canada) or the Business Corporations Act (Canada) for the appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be.

#### **Appeal from refusal, suspension or cancellation**

16. Where any registration is refused, suspended or cancelled under this Part, the person or company affected may appeal therefrom to the Supreme Court within 30 days from the date on which notice of refusal, suspension or cancellation is given by the registrar, and the Supreme Court may confirm, reverse or modify the action of the registrar.

#### **Notice of refusal, suspension or cancellation**

17. The registrar may in the case of any refusal or suspension and shall in the case of any cancellation give notice to the public by advertisement or otherwise, or to any individual by registered or certified mail or otherwise, whenever he deems it advisable.

## **PART 2**

### **INVESTIGATION AND ACTION BY THE REGISTRAR**

#### **Investigation**

18.(1) The registrar or any person or persons he may by order appoint may make such investigation as he or they deem expedient for the due administration of this Act or into any matter relating to trading in securities, in which case the registrar or his representative or representatives may investigate, inquire into and examine

- (a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of or in relation to or connected with the person or company and any property, assets or things owned, acquired or alienated in whole or in part by the person or company or by any person or company acting on behalf of or as agent for the person or company, and
- (b) the assets at any time held, the liabilities, debts, undertakings and obligations at any time existing, the financial or other conditions at any time prevailing or in relation to or in connection with the person or company, and the relationship that may at any time exist or have existed between the person or company and any other person or company by reason of investments, commissions promised, secured or paid, interests held or acquired, the loaning or borrowing of money, stock or other property, the transfer, negotiation or holding of stock, interlocking directorates, common control, undue influence or control or any other relationship.

(2) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records and things, as is vested in the Supreme Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions or to produce the documents, records and things in his custody or possession makes the person liable to be committed for contempt by a judge of the court as if in breach of an order or judgment of that court, and no provision of the Evidence Act exempts any bank or any officer or employee thereof from the operation of this section.

(3) A person giving evidence at an investigation under this section may be represented by counsel or agent.

(4) Where an investigation is ordered under this section, the person or persons appointed to make the investigation may search for, seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated.

(5) Where any documents, records, securities or other property are seized under subsection (4), the documents, records, securities or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place.

(6) Where an investigation is ordered under this section, the registrar may appoint an accountant or other person to examine documents, records, properties and matters of the person or company whose affairs are being investigated.

(7) Every person or persons appointed under this section shall report the result of his investigation or examination to the registrar.

(8) No person, without the consent of the Executive Council Member or the registrar, shall disclose, except to his counsel or the agent appointed pursuant to subsection (3), any information or evidence obtained or the name of any witness examined or brought to be examined under this section.

**Injunctions**

**19.(1)** The Supreme Court or any judge thereof, upon the application of the registrar, where it is made to appear upon the material filed or evidence adduced that any fraudulent act or any offence against this Act or the regulations has been, is being or is about to be committed, may by order enjoin

- (a) any registered broker, security issuer salesperson or any person or company implicated with any of them in the same matter, from trading in any security whatever absolutely or for such period of time as shall seem just, and any such injunction shall ipso facto suspend the registration of any registered broker, security issuer or salesperson named in the order absolutely or during the period of time stated in the order, or
- (b) any person or company from trading in any security whatever, or in any specific security, or from committing any specific fraudulent act or series of fraudulent acts absolutely or for such period of time as shall seem just.

**(2)** The application of the registrar under subsection (1) may be made without any action being instituted, either

- (a) by an ex parte motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof, unless the time is extended or the originating motion mentioned in paragraph (b) is sooner heard and determined, or
- (b) by an originating notice of motion which, if an interim injunction has been granted, shall be served within five and returnable within ten days from the date of such interim injunction.

**Order to hold or refrain from dealing with funds**

**20.(1)** The registrar may,

- (a) where he is about to order an investigation under section 18 involving a person or company or during or after an investigation under section 18, involving a person or company,
- (b) where he is about to suspend or cancel the registration of any person or company, or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the registrar are connected with or arise out of any security or any trade therein or out of any business conducted by such person or company,

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds or securities of the person or company referred to in paragraph (a), (b) or (c) to hold the funds or securities, or direct the person or company referred to in paragraph (a), (b) or (c) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control, or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the Bankruptcy Act (Canada), the Canada Business Corporations Act (Canada), the Winding-up Act (Canada), or until the registrar in writing revokes the direction or consents to release any particular fund or security from the direction, but the direction does not apply to funds or securities in a stock-exchange clearing house or to securities in process of transfer by a transfer agent unless the



direction expressly so states, and in the case of a bank loan or trust company, the direction applies only to the offices, branches or agencies thereof named in the direction.

(2) Any person or company in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any funds or security or in the case of a claim being made thereto by any person or company not named in the direction, may apply to a judge of the Supreme Court, who may direct the disposition of such funds or security and may make such order as to costs as seems just.

(3) In any of the circumstances mentioned in paragraph (1)(a), (b) or (c), the registrar may in writing or by telegram notify the registrar of land titles or any mining recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or mining claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens*, and the registrar may in writing revoke or modify the notice.

#### **Receiver, receiver and manager, or trustee**

21.(1) The registrar may,

- (a) where he is about to order an investigation under section 18 or during or after an investigation under section 18,
- (b) where he is about to make or has made a decision affecting the registration of any person or company or affecting the right of any person or company to trade in securities, or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Act or the regulations are about to be or have been instituted against any person or company that in the opinion of the registrar are connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

apply to a judge of the Supreme Court for the appointment of a receiver or a receiver and manager or a trustee of the property of such person or company.

(2) Upon an application made under subsection (1) the judge may, where he is satisfied that the appointment of a receiver or a receiver and manager or a trustee of the property of any person or company or of persons or companies any of whose property is in the possession or under the control of the person or company, appoint a receiver or a receiver and manager or a trustee of the property of the person or company.

(3) Upon an *ex parte* application made by the registrar under this section, the judge may make an order under subsection (2) appointing a receiver or a receiver and manager or a trustee for a period not exceeding eight days.

(4) A receiver or a receiver and manager or a trustee of the property of any person or company appointed under this section shall be the receiver or the receiver and manager or the trustee of all the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver or the receiver and manager or the trustee has authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

## **PART 3**

### **REGULATION OF TRADING**

#### **Prospectus**

22.(1) No person or company shall trade in any security issued by a mining company, investment company or industrial company either on his own account or on behalf of any other person or company until there has been filed with and accepted by the registrar a prospectus in respect of the offering of the security and a receipt therefor in writing has been obtained from the registrar or the registrar has ordered a prospectus need not be filed.

(2) A prospectus shall not be accepted by the registrar unless it is completed in accordance with this Act and the regulations.

(3) A prospectus shall be dated and signed by everyone who, at the time of the filing thereof with the registrar, is a director or promoter of the company that issued or will issue the security, or is an underwriter or optionee of the security.

(4) A prospectus shall contain a full, true and plain disclosure relating to the security to be traded and shall be in accordance with the regulations.

(5) Where after the filing of a prospectus and the issuance of a receipt therefor by the registrar under subsection (1), a change occurs that causes to be incorrect or misleading, any material information in a prospectus, financial statement or report filed under this Act and relating to the security being traded, a new or amended prospectus, financial statement or report shall be filed with the registrar within 20 days of the occurrence of the change, signed by the signatories to the first prospectus filed with the registrar, and where there has been a change of directors, promoters or underwriters in the meantime, the registrar shall decide upon the necessary signatories.

(6) The registrar may accept a form of prospectus and any amendments or a statement of material facts that is in accordance with the law of another province if, in his opinion, the prospectus and amendments or the statement of material facts contains full, true and plain disclosure relating to the security to be traded and is accompanied by proof of filing of the prospectus and amendment or the statement of material facts in the other province.

#### **Delivery of prospectus**

23.(1) A person or company registered for trading in securities under this Act who or that receives an order subscription or request for a security to which section 22 is applicable shall deliver or cause to be delivered to the prospective purchasers

- (a) a copy of the last prospectus or statement of material facts relating to the security filed with the registrar,
- (b) a copy of the last financial statement and reports filed with and accepted by the registrar, and

- (c) a fair and accurate summary of the report on the property of the company that issued the security and the development thereof, with all appropriate corrections.

(2) The delivery under subsection (1) shall be made before delivery of the written confirmation under section 27.

### **Rescission of contract**

24.(1) A person who has entered into a contract for the purchase of a security to which section 22 applies is entitled to rescission of the contract where

- (a) section 23 has not been complied with,
- (b) written notice of intention to commence an action for rescission of the contract is served on the person who contracted to sell the security within 60 days of the date of delivery of the written confirmation of the sale of the security, and
- (c) the purchaser is still the owner of the security.

(2) In an action for rescission under subsection (1), the onus of proving compliance with section 23 is upon the person who, under the contract, was or would be the seller of the securities.

(3) No action shall be commenced under this section after the expiration of three months from the date of service of the notice under subsection (1).

(4) Every prospectus or statement of material facts shall contain a statement of the rights given to a purchaser by this section.

### **Right to rescind**

25.(1) A person or company that is a party to a contract as purchaser resulting from the offer of a security to which section 22 applies has a right to rescind the contract while still the owner of the security if the prospectus, any amendment to the prospectus or the statement of material facts then filed with the registrar in compliance with section 22 received by the purchaser as of the date of receipt, contains an untrue statement of material fact or omits to state a material fact necessary in order to make any statement therein not misleading in the light of the circumstances in which it was made.

(2) No action by the purchaser shall be commenced under this section after the expiration of 90 days

- (a) where a prospectus or amended prospectus has been received by the purchaser, from the later to occur of the receipt of the prospectus or amended prospectus, or the date of the contract referred to in subsection (1), or
- (b) where a statement of material facts has been received, from the later to occur of the receipt of the statement of material facts, or the date of the contract referred to in subsection (1).

(3) Subsection (1) does not apply to an untrue statement of a material fact or an omission to state a material fact

- (a) if the untruth of the statement or the fact of the omission was unknown to the person or company whose securities are being offered by the prospectus or statement of material facts and, in the exercise of reasonable diligence, could not have been known to the person or company,
- (b) if the statement or omission is disclosed in an amendment to a prospectus or statement of material facts filed in compliance with section 22 and the amendment to the prospectus or statement of material facts was received by the purchaser, or
- (c) if the purchaser knew of the untruth of the statement or knew of the omission at the time he purchased the security.

(4) The cause of action conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

(5) Every prospectus or amended prospectus or statement of material facts shall contain a statement of the right of rescission provided by this section.

(6) For the purpose of this section, where a prospectus, a statement of material facts, or any amendment thereto is sent by prepaid mail, it shall be deemed to be received in the ordinary course of mail by the person or company to whom it was addressed.

#### **Voidability of short sales**

26.(1) Where a broker contracts with a client or customer to buy and carry for him upon margin any security, whether in the Yukon or elsewhere and, while the contract continues, sells or causes to be sold securities of the same kind for any account in which he, or in the case of a partnership, his firm or a partner thereof, or in the case of a company, the company or a director thereof, has a direct or indirect interest, the contract shall at the option of the client or customer be void, and the client or customer may recover from the broker all money paid with interest thereon, and all securities deposited in respect thereof, if the effect of any such sale shall otherwise than unintentionally be to reduce the amount of such securities in the hands of the broker or under his control in the ordinary course of business below the amount of such securities which he should be carrying for all clients or customers.

(2) The client or customer may exercise his option under subsection (1) by a registered or certified letter to that effect mailed to the broker at his address for service in the Yukon with a copy thereof to the registrar.

#### **Confirmation of customer's transaction**

27. Every broker who has acted as an agent or principal in a trade in a security shall promptly send or deliver to each client or customer for whom any security has been bought or sold by the broker a written confirmation of the transaction, setting forth

- (a) the quantity and description of the security,
- (b) the consideration,
- (c) the name of the person or company from, to or through whom the security was bought or sold,

- (d) the day and, in the case of a member of a stock exchange, the name of the stock exchange upon which the transaction took place,
- (e) whether or not the broker is acting as principal or agent,
- (f) the commission, if any, charged in respect of the purchase or sale, and
- (g) the name of the salesperson, if any, in the purchase or sale.

### **Calling at residences for the purpose of trading**

**28.(1)** No person shall

- (a) call at any residence, or
- (b) telephone from within the Yukon to any resident within or outside of the Yukon for the purpose of trading in any security with any member of the public.

(2) In this section,

“residence” includes any building or part of a building in which the occupant thereof resides, either permanently or temporarily, and any premises appurtenant thereto, but does not include an office used for business purposes;

“public” does not include

- (a) close personal friends,
- (b) business associates,
- (c) customers with whom the person who calls for the purpose of trading in securities has completed at least five trades in the past in the course of regular business in the sale of or obtaining subscriptions for securities, or
- (d) any person who has received a prospectus and who subsequently makes a request in writing, signed by himself, for further information with respect to the securities described in the prospectus.

(3) This section does not apply to a trade in a security in which trust funds may be invested under the Trustee Act or a trade in a security exempted by the regulations or by the registrar.

### **Opportunity for employment with investment**

**29.** No person shall advertise by publishing in any newspaper, magazine or periodical, or by any written or printed matter displayed to any person, an opportunity for employment coupled with an invitation to purchase securities, or any offer of employment in consideration of a loan, without the approval of the registrar in writing having been first obtained.

### **Investment counsel or securities adviser**

**30.** No person shall carry on business or describe himself as an investment counsel or securities adviser unless he is registered under this Act as a broker.

### **Representation of government approval**

**31.** No person shall make any representation, written or oral, that the Executive Council Member or registrar has in any way passed upon the financial standing, fitness or conduct of any broker, security issuer, salesperson or person, or upon the merits of any security offered for sale by any broker, security issuer, salesperson or person.

**Order to cease trading**

32.(1) Where the registrar considers it to be in the public interest, he may at any time issue an order prohibiting any person or company to whom the order is addressed, whether such person or company is registered or not, from trading in the securities mentioned in the order for such periods as may be mentioned therein.

(2) Every order made under this section shall be served on the person or company to whom it is addressed and forthwith upon receipt of the notice, and so long as the order remains in force, the person or company named therein shall comply with the order.

(3) A copy of the order shall be served on the person or company issuing the security.

(4) Any person or company prohibited by any order made under subsection (1) shall have the right of appeal therefrom to the Supreme Court if made within 30 days from the date of the mailing of the order to the person or company named therein except that the Supreme Court may give leave to extend the time for appeal beyond the 30 days.

## **PART 4**

### **AUDITS**

**Undertaking to employ accountant**

33. Every person or company who or that applies for registration as a broker or security issuer under this Act shall give to the registrar, at the time of making application, his or its undertaking in writing to employ an independent accountant satisfactory to the registrar to audit in each year his or its assets and liabilities and to prepare a balance sheet showing the position of his business and affairs as at a date to be stated in the undertaking.

**Broker and security issuer to keep records**

34. Every person or company registered under this Act as a broker or security issuer shall keep whatever books and records are necessary for the proper recording of his business transactions and financial affairs and shall, notwithstanding the requirements of section 33, file with the registrar annually and at such other time or times as the registrar may require a financial statement as to his or its financial position, certified by a partner or director of the person or company so registered and reported upon by the auditors of the person or company, and such other information as the registrar may require in such form as may be prescribed.

**Financial examination**

35.(1) The registrar or any person or persons directed in writing by him may at any time make an examination of the financial affairs of any person or company registered under this Act as a broker or security issuer or of any person or company whose securities have been the subject of a filing of a prospectus pursuant to the requirements of this Act, and prepare a balance sheet as of the date of such examination and any other statements and reports required by the registrar.

(2) The registrar or any person or persons making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the person or company whose

financial affairs are being examined, and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

(3) The registrar may charge the prescribed fees for any examination made under this section.

## **PART 5 GENERAL**

### **Judge not persona designata**

**36.** A judge of the Supreme Court in exercising any of the powers conferred upon such judge by this Act shall be deemed so to act as a judge of the Supreme Court and not as persona designata.

### **Rules of court to apply**

**37.** The provisions of the Judicature Act and the Rules of Court, so far as they are applicable to proceedings of a like nature including those relating to appeals and to the enforcement of judgments and orders, shall apply to every proceeding before the Supreme Court or a judge thereof under the provisions of this Act.

### **Appointments**

**38.(1)** The Commissioner in Executive Council may appoint a registrar and deputy registrars of securities.

(2) The registrar shall have a seal of office, bearing thereon the words "Registrar of Securities, Yukon", which he shall use as occasion may require.

### **Confidentiality**

**39.** The registrar and every officer, clerk, or person in or attached to his office shall keep secret all facts and information obtained or furnished under this Act except so far as his public duty requires him to make disclosure thereof, or to report or take official action thereon.

### **Protection of persons administering the Act**

**40.** No action whatever, and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy, shall lie or be instituted against any person, whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or carrying-out of the provisions of this Act or the regulations where such person is the Executive Council Member or his representative, or the registrar, or where such person or company was proceeding under the written or verbal direction or consent of any one of them, or under an order of the Supreme Court or a judge thereof made under the provisions of this Act.

### **Admissibility in evidence of certified statements**

**41.** A statement as to

- (a) the registration or non-registration of any person or company,

- (b) the filing or non-filing of any document or material required or permitted to be filed with the registrar,
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document, or material, or
- (d) the date upon which the facts came to the knowledge of the registrar for the purposes of section 47

purporting to be certified by the registrar is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding, or prosecution.

#### **Power to give priority to prospector or miner**

42. Where a bona fide prospector or miner has become the owner of or beneficially entitled to any security in consideration of his work as a prospector or miner, and where the security is in escrow under the control of the registrar, the registrar may in releasing the security from escrow give such priority or preference to the prospector or miner as the registrar may deem advisable.

#### **Inspection and copies of documents**

43. Any person may inspect and may require a copy or extract of any document or a certificate of any registration on payment of the prescribed fee and may require the copy or extract to be certified by the registrar as a true copy or extract on payment of the prescribed fee, but the provisions of this subsection shall not extend to any document which in the opinion of the registrar is of a confidential nature.

#### **Witnesses**

44. The Executive Council Member and registrar in their official capacities shall not be bound to attend out of their offices as witnesses for examination, or to produce out of their offices any document kept or filed with them as the Executive Council Member or registrar under this Act, in pursuance of any subpoena, order or summons issued from any court, whether such subpoena, order or summons is directed to him personally or in his official capacity; but the Executive Council Member or registrar may be examined and documents produced under a commission or otherwise at his office.

#### **Regulations**

45. The Commissioner in Executive Council may make regulations in respect of any matter arising out of the provisions of this Act.

#### **Offences and penalties**

46.(1) Every person or company who or that,

- (a) makes a statement in any material evidence or information submitted or given under this Act or the regulations to the Executive Council Member, his representative or the registrar, or to any person appointed to make an investigation or audit under this Act, that at the time and in the light of the circumstances under which it is made is false or misleading with respect to any material fact, or that omits to state any material fact the omission of which makes the statement false or misleading,
- (b) makes a statement in any application, report, prospectus, return, financial statement or other document required to be filed or furnished under this Act or the regulations that, at the time and in the light of the circumstances under



which it is made, is false or misleading with respect to any material fact or that omits to state any material fact the omission of which makes the statement false or misleading,

- (c) contravenes this Act or the regulations, or
- (d) fails to observe or comply with any order, direction, or other requirement made under this Act or the regulations,

commits an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both fine and imprisonment.

(2) No person or company commits an offence under paragraph (1)(a) or (b) if he or it did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

(3) Where a company commits an offence under subsection (1), every director or official of such company who authorized, permitted or acquiesced in such offence also commits an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both fine and imprisonment.

(4) Notwithstanding subsection (1), where a company is convicted thereunder, the maximum fine that may be imposed is \$25,000.

### **Prosecutions**

47.(1) No prosecution for an offence under this Act shall be instituted except with the consent or under the direction of the Executive Council Member or his authorized officer.

(2) Unless otherwise provided in this Act no prosecution for an offence under this Act shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the registrar.

### **Warrants of arrest from other jurisdictions**

48.(1) Where a judge or justice of a province issues a warrant for the arrest of any person on a charge of violating any provision of any statute of that province similar to this Act, any judge of the Territorial Court or justice of the Yukon within whose jurisdiction that person is or is suspected to be may, upon satisfactory proof of the handwriting of the judge or justice who issued the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed shall be sufficient authority to the person bringing the warrant, to all other persons to whom it was originally directed and to all peace officers within the territorial jurisdiction of the judge or justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or anywhere in the Yukon and to rearrest such person anywhere in the Yukon.

(2) Any peace officer of the Yukon or any province who is passing through the Yukon, having in his custody a person arrested in another province under a warrant endorsed in the manner provided by subsection (1), shall be entitled to hold, take and rearrest the accused anywhere in the Yukon under such warrant without proof of the warrant or the endorsement thereof.

**Collection of costs of investigation**

49.(1) Where in consequence of an investigation under Part 2 any person has been

- (a) convicted of a criminal offence,
- (b) convicted of an offence against this Act or the regulations,
- (c) enjoined by an order made under section 19, or
- (d) found to be committing, to have been about to commit, or to have committed a criminal offence involving fraud or an offence against this Act or the regulations,

or where for the purposes of an investigation under section 18 the registrar has under subsection 18(6) appointed an accountant or other person to make an examination in the course of the investigation, the Executive Council Member shall be entitled to demand from the person payment of the whole or any part of the investigation or examination.

(2) The Executive Council Member shall set forth in a certificate signed by him that the investigation or examination was made, the amount demanded under subsection (1) and the name of the person from whom it is demanded, and the certificate or a copy thereof certified by the registrar as a true copy may be filed with the registrar of the Supreme Court and when so filed shall become an order of that court, and may be enforced as a judgment of the Supreme Court against that person for the amount stated in the certificate.

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# CHAPTER 159

## SENIORS INCOME SUPPLEMENT ACT

### Interpretation

1. In this Act,

“benefit” means any sum of money paid as an allowance under this Act;

“beneficiary” means a person who receives a benefit;

“income supplement” means the monthly guaranteed income supplement payable under the Old Age Security Act (Canada);

“spouse’s allowance” means the monthly spouse’s allowance payable under the Old Age Security Act (Canada).

### Eligibility

2.(1) The Executive Council Member may pay a monthly allowance in an amount calculated under section 3 to every person who

- (a) makes his home in the Yukon,
- (b) ordinarily is present in the Yukon, and
- (c) receives the spouse’s allowance or the income supplement in the Yukon and not elsewhere.

(2) The eligibility of a person to receive a benefit commences upon the expiration of the month immediately following the month in which he satisfies the requirements of subsection (1).

(3) The eligibility of a person to receive a benefit ceases upon the payment of a benefit to him for

- (a) the month in which he dies, or
- (b) the month in which he ceases to satisfy the requirements of subsection (1).

### Amount of benefit

3. The amount of the benefit payable to a beneficiary each month under this Act shall be \$100, less

- (a) in the case of a beneficiary who receives the income supplement, 50 cents for every dollar by which the amount of his income supplement is less than the maximum amount of the income supplement that may be paid to any person in respect of that month under the Old Age Security Act (Canada), or
- (b) in the case of a beneficiary who receives the spouse’s allowance, \$1 for every \$3 by which the amount of his spouse’s allowance is less than the maximum amount of the spouse’s allowance that may be paid to any person in respect of that month under the Old Age Security Act (Canada).

### Return of benefit

4.(1) A person who receives a sum of money paid as a benefit to which he is not entitled shall return it forthwith to the Government of the Yukon.

(2) Where a person receives a sum of money paid as a benefit to which he is not entitled, it may be recovered by the Government of the Yukon as a debt due to it.

(3) Proceedings under subsection (2) may be commenced at any time for the recovery of money from a person who makes a wilful misrepresentation or who commits fraud for the purpose of obtaining it, but in all other cases proceedings under subsection (2) shall be commenced within one year after the receipt of the money by the person who is not entitled to it.

(4) Where any money received by a person as a benefit to which he is not entitled is not returned to or recovered by the Government of the Yukon, the amount shall be deducted from any benefit for which the person may be, or may become, eligible.

#### **Assignment of benefit**

5. A benefit may not be assigned, charged, attached, anticipated or given as security, and any transaction, instrument or part of a transaction or instrument purporting to assign, charge, attach, anticipate or give as security a benefit is void.

#### **Appeal**

6.(1) Any person who is refused a benefit under this Act may appeal to the social assistance appeal committee established under the Social Assistance Act for the area in which he resides, and a further appeal lies from the decision of an appeal committee to the Social Assistance Appeal Board established under the Social Assistance Act.

(2) On an appeal under subsection (1), a social assistance appeal committee or the Social Assistance Appeal Board may determine the eligibility of a person to receive a benefit under this Act.

(3) In respect of questions arising out of proceedings before or decisions of social assistance appeal committees under subsection (1), the Social Assistance Appeal Board shall have

- (a) exclusive appellate jurisdiction throughout the Yukon to hear and adjudicate upon questions of fact, and
- (b) appellate jurisdiction throughout the Yukon to hear and adjudicate upon questions of law, and questions of mixed fact and law.

#### **Offence**

7. Every person commits an offence who

- (a) applies for or attempts to obtain a benefit to which he knows he is not entitled, or
- (b) fails to comply with subsection 4(1).

#### **Regulations**

8. The Commissioner in Executive Council may make such regulations as he deems necessary

- (a) prescribing the time and manner of paying benefits;
- (b) prescribing forms to be used for the purposes of this Act;
- (c) prescribing the manner of making deductions under subsection 4(4);

- (d) prescribing the manner of proof of eligibility for benefits under section 2;
- (e) generally, respecting any matter required for the proper administration of this Act.

**Agreements**

9. The Commissioner in Executive Council may enter into agreements with the Minister of Health and Welfare (Canada) to provide for the payment by the Government of Canada to the Government of the Yukon of contributions in respect of the cost to the Government of the Yukon of providing benefits under this Act.

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# **CHAPTER 160**

## **SMALL CLAIMS COURT ACT**

### **Establishment of the court and appointment of judges**

1.(1) There is hereby established a court to be known as the Small Claims Court of the Yukon.

(2) The Small Claims Court shall be presided over by a judge of the Territorial Court.

(3) The Commissioner in Executive Council may appoint a lawyer to act as a deputy judge of the Small Claims Court.

### **Jurisdiction**

2.(1) Subject to subsection (2), the Small Claims Court

- (a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed \$3,000 exclusive of interest and costs,
- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed \$3,000, and
- (c) shall perform any function assigned to it by or under any other Act.

(2) The Small Claims Court does not have jurisdiction in

- (a) any action for the recovery of land or in which an interest in land comes in question,
- (b) any action against the personal representatives of a deceased person or in which the validity of a devise, bequest or limitation under a will or settlement is disputed, or
- (c) any action for libel or slander.

### **Hearing and determination of issues**

3. Subject to this Act and any other Act, the Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make any order as is considered just.

### **Clerk of the court and other officials**

4. The clerk of the Territorial Court shall be the clerk of the Small Claims Court and all other officials of the Territorial Court shall be officials of the Small Claims Court.

### **Non-compliance with the Act.**

5. A failure to comply with this Act is an irregularity and shall not render a proceeding or a step in a proceeding a nullity, and the Small Claims Court may grant all necessary amendments or other relief, on such terms as are just, to secure the just determination of the matters in dispute.

### **Representation by lawyer or agent**

6.(1) Subject to subsection (2), a party may be represented at a proceeding in Small Claims Court by counsel or by an agent.

(2) The court may exclude from the hearing anyone, other than a lawyer qualified to practise in the Yukon, appearing as an agent on behalf of a party, if it finds that such person is not competent to represent properly the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate.

**Evidence**

7.(1) Subject to subsections (2), (3) and (4), the Small Claims Court may admit as evidence at a hearing any oral testimony and any document or other thing relevant to the subject matter of the proceeding and may act on such evidence, but the court may exclude anything unduly repetitious.

(2) Evidence under subsection (1) may be admitted as evidence whether or not

- (a) given or proven under oath or affirmation, or
- (b) admissible as evidence in any other court.

(3) Nothing is admissible at a hearing

- (a) that would be inadmissible by reason of any privilege under the law of evidence, or
- (b) that is inadmissible under any other Act.

(4) Subsection (1) is subject to the provisions of any Act expressly limiting the extent to which or the purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceedings.

(5) Where the presiding judge is satisfied as to its authenticity, a copy of a document or any other thing may be admitted as evidence at a hearing.

**Payment of money**

8. The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid.

**Appeal**

9. An appeal lies to the Supreme Court from a final order of the Small Claims Court by way of trial de novo.

**Transfer of action from Supreme Court**

10. An action in Supreme Court may be transferred to the Small Claims Court by the clerk of the Supreme Court upon request and with the consent of all parties filed before the trial commences, where

- (a) the only claim is for the payment of money or recovery of possession of personal property, and
- (b) the claim is within the jurisdiction of Small Claims Court.

**Regulations and Rules**

11.(1) The Commissioner in Executive Council may make regulations in relation to the practice and procedure of the Small Claims Court respecting

- (a) the conduct of proceedings in the court;



- (b) the joinder of actions and parties, whether or not a proceeding has been commenced in respect of the claim;
- (c) the settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim;
- (d) the representation of parties;
- (e) the commencement of proceedings and service of process in or outside the Yukon;
- (f) the disposition of proceedings without a hearing and the effect thereof;
- (g) pleadings;
- (h) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of the resulting evidence in a proceeding;
- (i) the examination of witnesses in or out of court;
- (j) the duties of clerks and other officers;
- (k) motions;
- (l) the preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (m) preparations for trial and offers to settle;
- (n) the mode and conduct of trials;
- (o) the costs of proceedings;
- (p) the enforcement of orders in process;
- (q) payment into and out of court;
- (r) any matter that is referred to in an Act as provided for by rules of court;
- (s) the mediation and arbitration of actions.

(2) Nothing in this section authorizes the making of rules that conflict with an Act, but regulations may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure.

(3) The Commissioner in Executive Council may make regulations

- (a) respecting returns to be made by the Small Claims Court;
  - (b) fixing the remuneration of deputy Small Claims Court judges;
  - (c) providing for a system of statistical records relating to the Small Claims Court.
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# CHAPTER 161

## SOCIAL ASSISTANCE ACT

### **Interpretation**

1. In this Act,

- “appeal board” means the Social Assistance Appeal Board established pursuant to section 10;
- “appeal committee” means a Social Assistance Appeal Committee established pursuant to section 9;
- “assistance” means aid of the kind prescribed in the regulations to or in respect of a person in need;
- “director” means the director of human resources appointed under section 2;
- “person in need” means a person whose need for assistance has been established in accordance with the regulations;
- “welfare services” means services of the kind prescribed in the regulations having as their object the lessening, removal or prevention of the causes and effects of poverty, child neglect or dependence on public assistance.

### **Director of human resources**

2. There shall be a director of human resources for the Yukon to be appointed by the Commissioner in Executive Council.

### **Duties of director**

3. The director shall, under the direction of the Executive Council Member, administer this Act and perform such other duties and functions as the Commissioner in Executive Council may prescribe.

### **Social welfare officer**

4. The Commissioner in Executive Council may designate any person in the Yukon to be a social welfare officer for such area as the Commissioner in Executive Council may designate and may prescribe the duties and functions of such officer.

### **Agreements**

5. Subject to this Act, the Commissioner in Executive Council may enter into an agreement with the Minister of National Health and Welfare to provide for the payment by the Government of Canada to the Government of the Yukon of contributions in respect of the cost to the Government of the Yukon of providing

- (a) assistance to persons in need, and
- (b) welfare services to or in respect of persons in need or persons who are likely to become persons in need unless such services are provided.

### **Terms and conditions**

6. An agreement entered into pursuant to section 5 may contain such other terms and conditions as the Commissioner in Executive Council deems necessary and may be amended or terminated at any time by mutual consent of the parties thereto.

**Assistance**

7.(1) The director shall, in accordance with the regulations, grant assistance to any person in need in the Yukon or to any person in need who is, in accordance with an arrangement approved by the director, outside the Yukon.

(2) The director may, in accordance with the regulations, provide welfare services to any eligible person living in the Yukon or to any such person who is, in accordance with an arrangement approved by the director, outside the Yukon.

**Regulations**

8. The Commissioner in Executive Council may make such regulations as he deems necessary to carry out the provisions of this Act and without limiting the generality of the foregoing may make regulations,

- (a) prescribing, for the purposes of this Act, the kinds of aid that constitute assistance and the kind of services that are welfare services;
- (b) prescribing the amount of assistance that may be given to persons in need;
- (c) prescribing conditions of eligibility to receive assistance;
- (d) governing the time and manner of making applications for assistance;
- (e) prescribing the information, material or proof, including evidence under oath, that is to be furnished before assistance is given;
- (f) respecting the investigation of applications in order to determine the eligibility of the applicants to receive assistance, and prescribing the procedure to be followed in the consideration of all information, material and evidence submitted;
- (g) prescribing the manner in which an applicant for assistance shall be informed as to whether his application has been granted or refused;
- (h) prescribing the time within and manner in which assistance shall be given, and the forms to be used under this Act;
- (i) prescribing the circumstances or conditions under which assistance shall be terminated or the amount of any assistance altered;
- (j) respecting the information and material to be furnished from time to time by recipients as to their continued eligibility for assistance;
- (k) prescribing the manner in which welfare services may be provided;
- (l) prescribing the manner in which appeals shall be dealt with pursuant to section 11;
- (m) prescribing the manner of informing applicants for and recipients of assistance of their responsibilities and rights under the Act and regulations;
- (n) respecting the obligations of the Government of the Yukon under an agreement made pursuant to section 5.

**Social Assistance Appeal Committees**

9.(1) The Commissioner in Executive Council shall establish one or more Social Assistance Appeal Committees for the purpose of hearing appeals under this Act in such areas as he may designate.

(2) Each appeal committee shall consist of a chairperson and two other members to be appointed by the Commissioner in Executive Council.

(3) Two members of an appeal committee constitute a quorum.

**Social Assistance Appeal Board**

10.(1) There shall be a board to be known as the Social Assistance Appeal Board, consisting of a chairperson and four other members to be appointed by the Commissioner in Executive Council.

(2) The appeal board shall meet at such times and at such places in the Yukon as the chairperson may determine.

(3) Three members of the appeal board constitute a quorum.

**Appeals**

11.(1) Any applicant for or recipient of assistance under this Act may appeal any decision made by a social welfare officer or the director with respect to his eligibility to receive assistance or the amount of assistance paid to him.

(2) Each appeal made under subsection (1) shall be made in the first instance to the appeal committee for the area in which the person resides.

(3) Any applicant for or recipient of assistance or the director may appeal any finding of an appeal committee to the appeal board.

(4) Every person making an appeal before an appeal committee pursuant to subsection (2) or the appeal board pursuant to subsection (3) shall be entitled to appear in person and may be represented by an agent or by counsel.

**Expenses and allowances**

12. Each member of an appeal committee and each member of the appeal board shall be paid reasonable travelling and living expenses incurred by him in the performance of his duties in connection with the work of the appeal committee or appeal board and may be paid a per diem allowance fixed by the Commissioner in Executive Council for each day he is engaged in the work of the appeal committee or appeal board.

**Recovery of over-payment**

13. Where a person has received assistance for which he is not eligible or assistance in an amount in excess of the amount of assistance to which he is eligible, the amount thereof or the excess amount, as the case may be, may be recovered at any time as a debt due to the Government of the Yukon or may be retained, in whole or in part, out of any subsequent amount payable to that person as assistance.

**Offence**

14. Every person who, for the purpose of obtaining assistance under this Act for himself or for any other person, knowingly makes a false or misleading statement commits an offence punishable on summary conviction.



# CHAPTER 162

## SOCIETIES ACT

### **Interpretation**

#### **1. In this Act,**

“bylaws” means the bylaws prescribing regulations for a society;

“constitution” means the constitution established for a society under the provisions of this Act;

“director” includes trustee, officer, member of an executive committee and any person occupying such position by whatever name called;

“document” includes notice, order, summons and other legal process and registers;

“extraordinary resolution” means a resolution passed by a majority of such members entitled to vote as are present in person or by proxy, where proxies are allowed, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given, such majority being either three-fourths or two-thirds, according as the bylaws provide, and in the absence of such provision a majority of three-fourths;

“registrar” means the registrar as defined in the Business Corporations Act;

“society” means a society incorporated under this Act;

“subscription” includes fees, dues, assessments or other like sums payable by a member under the bylaws of a society.

### **Objects of society**

2. A society may be incorporated under this Act to promote any object of a national, patriotic, religious, philanthropic, charitable, provident, scientific, artistic, educational, social, professional, agricultural or athletic character or any useful object, but not for the purpose of carrying on any trade, industry or business.

### **No power to grant degrees**

3. No society shall have power to grant or confer any degree or diploma of literary, technical or scientific standing.

### **No personal liability**

4. No member of a society is, in his individual capacity, liable for any debt or liability of the society.

### **No share capital or dividends**

5. No society shall have a capital divided into shares, declare any dividend or distribute its property among the members during the existence of the society, and the interest of a member in a society shall not be transferable.

### **Incorporation**

6.(1) Any five or more persons proposing to incorporate a society shall make and subscribe in duplicate in the prescribed form the constitution and bylaws of the society, and shall transmit the same with the proper fees to the registrar, together with

- (a) a list of the persons appointed by the subscribers to act as the first directors of the society, stating their full names, addresses and occupations and the period for which they will so act,
- (b) a notice setting forth the address of the society, and
- (c) if the registrar requires it, the consent of an existing society to the incorporation.

(2) Where the objects of the society do not appear to the registrar to be within the scope of this Act or to be sufficiently set forth, he may require that the objects be altered accordingly, but where the constitution and bylaws appear to the registrar to comply with this Act, he shall issue under his seal of office a certificate showing that the society is incorporated and stating the locality in which its operations will be chiefly carried on.

(3) Incorporation may after investigation be refused by the registrar, but an appeal may be taken from his refusal to the Executive Council Member.

(4) In the case of a society whose objects include that of operating a social club, the registrar shall not issue a certificate unless the written consent of the Executive Council Member to incorporation is filed with the registrar.

(5) Upon incorporation the registrar shall retain and register one copy of the constitution and bylaws, shall return the other copy to the applicants certified as having been registered by him, and shall forthwith at the cost of the applicants publish the certificate with a statement of the objects of the society in one issue of the Yukon Gazette.

(6) A certificate of incorporation given by the registrar in respect of a society shall be conclusive evidence that the requirements of this Act in respect of incorporation have been complied with, and that the society is duly incorporated according to the provisions of this Act.

**Effect of incorporation**

7. From the date of the certificate of incorporation the subscribers to the constitution and bylaws and such other persons as may from time to time become members of the society shall be a body corporate by the name therein described, having perpetual succession and the right to a common seal, and with such powers as its constitution entitles it to, subject to this Act.

**Contracts and seal**

8.(1) A society may sue and be sued, contract and be contracted with, in its corporate name.

(2) A society may adopt a common seal and alter or change the same at its pleasure, but shall in all cases have its name engraved in legible characters on its common seal.

**Property**

9. A society may acquire and take by purchase, donation, devise or otherwise land and personal property, may sell, exchange, mortgage, lease, let, improve and develop the same, and may erect and maintain any necessary buildings.



**Funds**

10. The funds and property of the society shall be used and dealt with for its legitimate objects only and in accordance with its bylaws, and a society shall invest its funds only in securities in which trustees are for the time being authorized by law to invest.

**Borrowing powers**

11. For the purpose of carrying out its objects, a society may borrow, raise or secure the payment of money in such manner as it thinks fit, and in particular by the issue of debentures, but none of these powers shall be exercised except in accordance with the provisions of the bylaws of the society, and debentures shall not be issued without the sanction of an extraordinary resolution of the society.

**Bills of exchange**

12. For the purpose of carrying out its objects a society may, subject to its bylaws, draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments.

**Association with other societies**

13. A society may, if authorized so to do by an extraordinary resolution, subscribe to, become a member of and cooperate with any other society or association, whether incorporated or not, whose objects are in whole or part similar to its own objects.

**Alteration of objects, name or locality**

14.(1) A society by extraordinary resolution may change its name or its objects so as to include some object or objects that may conveniently or advantageously be combined with the existing objects of the society, or so as to restrict or abandon any object specified in the constitution or the locality in which its operations are chiefly carried on.

(2) No resolution pursuant to subsection (1) shall take effect unless it is approved by the registrar, and the registrar shall not give his approval unless, in the case of a resolution for a change of the locality in which its operations will be chiefly carried on by a society whose objects include, or by virtue of the resolution will include, that of operating a social club, the resolution has been consented to in writing by the Executive Council Member.

(3) When the registrar has given his approval to the resolution he may issue a certificate under his seal of office setting forth particulars of the change.

(4) A notice of any alteration under this section shall, if the registrar thinks it advisable, be published in the Yukon Gazette by the registrar at the cost of the society.

(5) Where a society is in default in respect of any requirement of this Act the registrar may refuse to issue any certificate under this section.

(6) Any certificate issued by the registrar pursuant to this section shall be conclusive evidence that the requirements of this section have been complied with.

**Change in name not to affect obligations of society**

15. A change of name shall not affect any rights or obligations of the society or render defective any legal proceedings by or against the society, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

**Unalterable provisions of constitution**

16. Where the constitution of a society contains any provision other than the statement of its name, objects and locality of operations, that provision shall be unalterable and the constitution shall so state.

**Branch societies**

17.(1) A society may, if authorized by its bylaws, establish and maintain one or more branch societies which shall have such powers, not exceeding the powers of the society, as the society may from time to time confer.

(2) Where a society establishes a branch society, it shall forthwith send to the registrar a notice setting forth the date on which the branch society was authorized, its title, locality and powers, and such other information as the registrar may require, and shall likewise notify the registrar when any branch ceases to exist.

(3) Subsection (1) does not apply to a society whose objects include the operation of a social club.

**Incorporation of a branch of a society**

18.(1) Where a branch of an incorporated or unincorporated society desires to be incorporated under this Act, it shall in addition to any other requirement of this Act file with the registrar a certificate under the seal, if any, of that society consenting to such incorporation, and shall comply with any term or condition mentioned in the certificate.

(2) No branch society so incorporated may exercise any power conferred on a society under this Act if the exercise of such power is prohibited by or in conflict with the constitution or bylaws of the society to which it belongs or any term or condition of the certificate filed under subsection (1), without first obtaining the written consent of that society.

(3) Where the certificate filed under subsection (1), so provides, the constitution and bylaws of the branch society shall be deemed to include the constitution and bylaws of the society giving the certificate, or the portion thereof mentioned in the certificate, but in no case shall the powers of a branch society exceed the powers permitted to a society by this Act.

**Form of contracts**

19.(1) Contracts on behalf of a society may be made as follows:

- (a) any contract that, if made between private persons, would be by law required to be in writing and under seal may be made on behalf of the society in writing under the common seal of the society, and may in the same manner be varied or discharged;

- (b) any contract that, if made between private persons, would be by law required to be in writing signed by the persons to be charged therewith, may be made on behalf of the society in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged;
- (c) any contract that, if made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the society by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made, varied or discharged according to this section shall so far as concerns the form thereof be effectual in law and binding on the society and all other parties thereto.

(3) A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of a society if made, accepted or endorsed in the name of, by or on behalf of, or on account of the society by any person acting under its authority, express or implied.

### **Members and voting**

20.(1) The members of a society shall be the subscribers of the constitution and bylaws and those persons admitted to membership therein according to the bylaws.

(2) Subject to the provisions of the bylaws,

- (a) a person under the age of 19 years may be admitted as a member of a society or appointed to any office therein, and shall be liable for the payment of a subscription as if he were of full age,
- (b) a corporation admitted to membership in a society may be represented by some person authorized on behalf of the corporation, and
- (c) every member of a society shall have a vote.

(3) No member shall be entitled to vote on an extraordinary resolution unless he is in good standing in accordance with the bylaws.

(4) Permanent proxies or proxies entitling any person or member to vote at other than one meeting or any adjournment shall be invalid.

### **Contents and alteration of bylaws**

21.(1) The bylaws of a society incorporated under this Act shall contain provisions in respect of the following matters:

- (a) terms of admission of members and their rights and obligations;
- (b) conditions under which membership ceases and the manner, if any, in which a member may be expelled;
- (c) the month of holding the annual general meeting, the mode and notice required for calling general and special meetings of the society, the number constituting a quorum at any such meeting and the rights of voting;
- (d) the appointment and removal of directors and other officers and their duties, powers and remuneration;
- (e) the exercise of borrowing-powers;

- (f) the audit of accounts;
- (g) the custody and use of the seal of the society;
- (h) the alteration of bylaws by extraordinary resolution and the requisite majority;
- (i) the preparation and custody of minutes of proceedings of meetings of the society and of the directors, and other books and records of the society;
- (j) the time and place, if any, at which the books and records of the society may be inspected by members.

(2) The bylaws of a society shall not be altered or added to except by an extraordinary resolution of the society.

(3) Every such resolution shall be filed in duplicate with the registrar, who shall register one copy and return the other copy certified as having been registered by him.

(4) No resolution under subsection (2) has any force or effect until it has been filed under subsection (3) with the registrar.

(5) Nothing that is in conflict with the constitution of a society shall be included in the bylaws, and the bylaws shall not contain anything contrary to law.

### **Directors**

22.(1) Subject to the bylaws, the members of a society may nominate, elect or appoint any of its members as directors for conducting the business, discipline and management of the society and its affairs.

(2) Subject to this Act and the bylaws, the directors may exercise all the powers of a society.

### **Director may be required to give security**

23. A society may require any director or officer to give such security as may from time to time be deemed sufficient for the faithful discharge of his duties.

### **Arbitration of disputes**

24. The bylaws of a society may provide that any dispute arising out of the affairs of the society between any members thereof, or between a member or any person aggrieved who has for not more than six months ceased to be a member or any person claiming through such member or person aggrieved or claiming under the bylaws, and the society or a director or officer thereof, shall be decided by arbitration, which shall be under the Arbitration Act unless the bylaws prescribe some other method.

### **Fines for contravention of bylaws**

25.(1) A society may by its bylaws impose a fine not exceeding \$5 on any member who has contravened any bylaws of the society.

(2) Any fine may be recovered as a debt due from the member to the society, and all fines so recovered shall belong to the society.

**Address for service**

26. Every society shall have an address in the Yukon to which all communications and notices may be sent and at which all process may be served, and shall file with the registrar notice of every change therein within 14 days after the change is made.

**Place for holding general meetings**

27. Every general meeting of a society shall be held in the Yukon.

**Annual general meeting**

28.(1) Every society shall hold an annual general meeting and shall, within 30 days after such general meeting, file with the registrar a statement in the form of a balance sheet containing general particulars of its liabilities and assets, and a statement of its income and expenditures audited and signed by the auditor of the society or, if there is no auditor, signed by two directors.

(2) Every society shall, in the manner prescribed by the bylaws, appoint a person to hold the office of auditor who shall, upon the approval of the registrar, be the auditor for the society.

(3) Subject to subsections (4) and (5) and notwithstanding subsection (2), where a society by extraordinary resolution waives the appointment of an auditor, the society is not required to appoint an auditor.

(4) No resolution under subsection (3) is effective for more than one financial year.

(5) Where an appointment of an auditor is not made under subsection (2), the Executive Council Member may, on the application of any member of the society, appoint an auditor for the society for the current year and fix his remuneration.

**Annual list of directors**

29.(1) Every society shall file with the registrar with its annual statements a list of its officers and directors, with their addresses and occupations, and also, upon request of the registrar, at any time, furnish him with particulars of its officers and directors.

(2) The list of officers and directors shall state the date of the appointment or election of each officer and each director and his term of office.

**Register of members**

30.(1) Every society shall keep in one or more books a register of its members, and shall enter therein the names of the subscribers of the constitution and bylaws and the name of every other person who is admitted as a member of the society, together with the following particulars:

- (a) the full name, address and occupation of every such subscriber and person;
- (b) the date on which each person is admitted as a member;
- (c) the date on which any person ceases to be a member.

(2) Every society that fails to comply with this section commits an offence against this Act.

**Extraordinary resolutions**

31. Every society shall file with the registrar, in duplicate, every extraordinary resolution, and he shall register one copy and return the other, certified as having been registered by him.

**Authentication of documents that must be filed**

32. Every notice, return or resolution required to be filed with the registrar shall be authenticated by a director, secretary or other authorized officer of the society.

**Refusal of registration**

- 33.(1) The registrar may, where he is of the opinion that any document submitted to him
- (a) contains matter contrary to law,
  - (b) by reason of any omission or mis-description, has not been duly completed,
  - (c) does not comply with the requirements of this Act, or
  - (d) contains any error, alteration or erasure,

refuse to receive or register the document and request that the document be appropriately amended or completed and re-submitted, or that a new document be submitted in its place.

- (2) Every document required by this Act to be filed or registered with the registrar
- (a) shall be in typed or printed form, and
  - (b) shall be in the English language, or accompanied by a notarially certified translation of it.

**Copies of constitution**

34. Every society shall furnish to a member at his request, and on payment of a sum not exceeding \$0.50, a copy of its constitution and bylaws.

**Revocation and cancellation of incorporation**

35. Upon sufficient cause being shown and upon such conditions and subject to such provisions as may be deemed proper, the Executive Council Member may revoke and cancel the incorporation of a society and declare the society to be dissolved, and without limiting the generality of the foregoing a conviction obtained against a society for a violation of the provisions of this Act or the regulations made thereunder shall constitute sufficient cause within the meaning of this section.

**Voluntary surrender of certificate of incorporation**

36. A society may, by extraordinary resolution, surrender its certificate of incorporation, and the registrar may, after being satisfied that sufficient notice of the society's intention has been given and that no debts, liabilities or obligations of the society are outstanding, accept the surrender of the certificate and cancel it, and fix a date from which the society shall be dissolved.

**Default in filing and cessation of operation**

37.(1) Where a society has failed for any period of two years to make, send or file any return, notice or document required to be made, sent to or filed with the registrar pursuant to this Act, or where the registrar has reasonable cause to believe that a society is not operating, he shall send to the society by registered or certified mail a letter enquiring whether such society is in operation and notifying it of its default if any.

(2) If within two months no reply to such letter is received by the registrar, the society fails to fulfil the lawful requirements of the registrar or the society notifies the registrar that it is not in operation, he may at the expiration of 14 days send to such society a notice that at the expiration of two months from the date of that notice the name of such society mentioned therein will, unless cause be shown to the contrary, be struck off the register and the society will be dissolved.

(3) At the expiration of the time mentioned in the notice the registrar shall, unless cause to the contrary is previously shown by such society, strike the name of such society off the register and shall publish notice thereof in one issue of the Yukon Gazette.

(4) Upon such publication the society shall be dissolved or if an extra-territorial society shall be deemed to have ceased to operate in the Yukon, except that the liability, if any, of every director, officer, member or employee of such society shall continue and may be enforced as if the name of such society had not been struck off the register.

(5) Where a society, any member or creditor thereof, or any person to whom the society is under any legal obligation is aggrieved by the society having been struck off the register, the registrar may restore the society to the register on application to him in such form as he prescribes by the society, member or creditor, but the registrar shall not restore the society to the register unless he is satisfied that the society was at the time of the striking-off in operation or that it is just that the society be restored to the register, and in the case of a society carried on chiefly as a social club unless it has obtained the written consent of the Executive Council Member, and any returns and other information the registrar requires shall be filed with him.

(6) On compliance with the requirements mentioned in subsection (5) the registrar may restore the society to the register, and thereupon the society shall be deemed to have continued in existence as if it had not been struck off, without prejudice to the rights of parties acquired prior to the date on which the society is restored.

(7) Where the application is not made within one year from the date on which the society was struck off and another society has been incorporated under the same or a similar name, the registrar shall require the society to take a new name before it is restored.

(8) A society may be restored for a limited period or for the purpose of carrying out a particular purpose, and after the expiration of that period or the execution of that purpose the society shall again be struck off the register by the registrar.

### **Winding-up**

38.(1) Any interested person may apply to the Supreme Court for an order liquidating and dissolving a society.

(2) The Supreme Court may order the liquidation and dissolution of a society if it is satisfied that it is just and equitable to do so.

(3) The provisions of sections 218 to 225 of the Business Corporations Act apply with the necessary changes to an application made under this section.

**Amalgamation of societies**

39.(1) Any two or more societies may amalgamate and form a new society by passing extraordinary resolutions which shall authorize their respective directors to make and subscribe jointly a constitution and bylaws in the prescribed form and to comply in other respects with section 6.

(2) After the issue of a certificate of incorporation to the new society the former societies shall stand dissolved, and all property and rights of such societies shall pass to and be vested in the new society without any further act or deed, but no amalgamation under this section shall affect the rights of any creditor and the new society shall be liable for all debts and obligations of the former societies.

(3) The estate and interest of the former societies in any land as registered under the Land Titles Act (Canada) shall be registered in the name of the new society.

**Extra-territorial societies**

40. For the purposes of sections 41 to 49, “extra-territorial society” means a society or association formed outside the Yukon and includes a branch of any such society or association, but does not include a society or association that is formed for the acquisition of gain or that has a capital divided into shares.

**Registration of extra-territorial societies**

41.(1) The registrar may require any extra-territorial society that carries on any operations in the Yukon to apply for registration under this Act, and any society so required to apply shall, unless registration is granted, cease to operate in the Yukon, and the registrar shall fix the date after which it shall cease to operate.

(2) Any extra-territorial society may apply for registration under this Act.

(3) An extra-territorial society whose objects include the operation of a social club shall not be registered without the written consent of the Executive Council Member, and every branch of such a society shall, if the registrar so requires, apply for separate registration and consent.

**Application for registration of extra-territorial societies**

42.(1) Application for registration shall be made to the registrar according to a form prescribed by him and shall be accompanied by such documents as he requires.

(2) Where the registrar determines that the requirements of this Act have been complied with and that the society should be registered, he shall issue under his seal of office a certificate showing that the society is registered under this Act as an extra-territorial society, and stating the place of formation or incorporation and the locality in which its operations will be chiefly carried on, and, if he thinks it advisable, shall at the cost of the society publish in one issue of the Yukon Gazette a copy of the certificate with a statement of the operations to be carried on in the Yukon.

(3) The registrar may attach to a certificate of registration such conditions and limitations as seem to him advisable, and the extra-territorial society shall comply with and observe these conditions and limitations.



(4) The registrar may after investigation refuse registration, but an appeal may be taken from his refusal to the Executive Council Member.

#### **Operation of an extra-territorial society**

43. Subject to this Act and the laws of the Yukon, an extra-territorial society registered under this Act may, within the Yukon, carry on its operations in accordance with its certificate of registration.

#### **Attorney of an extra-territorial society**

44.(1) The registrar may require an extra-territorial society within a time specified by the registrar to appoint some person resident in the city or place in the Yukon where the society will chiefly carry on its operations to be its attorney, with authority on its behalf to accept service of process in all suits and proceedings by or against the society within the Yukon and to receive all lawful notices to the society.

(2) The society shall within one week after the appointment file a copy of the appointment with the registrar and the appointment shall contain the name, occupation and address of the attorney.

(3) If the person appointed ceases to act the society shall within three weeks after he ceases to act appoint a new attorney and shall within one week after the appointment, file a copy of the appointment, and the appointment shall contain the name, occupation and address of the attorney.

#### **Statements to be filed by extra-territorial societies**

45. An extra-territorial society registered under this Act shall file with the registrar

- (a) a verified copy of any amendment to its constitution and bylaws or corresponding instrument within one month after the amendment takes effect,
- (b) the notice prescribed by section 26, and
- (c) the statements and list prescribed by sections 28 and 29.

#### **Suspension and revocation of registration**

46. The Executive Council Member may for good cause suspend or revoke the registration of an extra-territorial society under this Act, and may remove or cancel a suspension or revocation subject to any condition thought advisable.

#### **Prohibition**

47. No person shall directly or indirectly represent or act as agent of an extra-territorial society required by the registrar to apply for registration under this Act unless the society holds a subsisting certificate or registration.

#### **Unregistered extra-territorial societies**

48. An extra-territorial society not registered as required by this Act shall not be capable of maintaining any action, suit or other proceeding in any court in the Yukon in respect of any contract made in whole or part in the Yukon in the course of or in connection with its operations.

**Application of the Act to extra-territorial societies**

49. Sections 50 to 57 apply to extra-territorial societies.

**Investigations**

50.(1) Where it appears to the registrar that a society exists for an illegal purpose or that a society carried on chiefly as a social club is not conducted in a proper manner or as a bona fide club, the registrar shall report the facts to the Executive Council Member, and thereupon the Executive Council Member may appoint by writing under his hand some person to investigate the affairs and conduct of the society and to make a written report to him of his findings.

(2) The person so appointed may examine on oath any director, manager, officer, agent or employee of the society or other person in relation to the affairs of the society, may administer an oath accordingly and may require the production of all books and papers of the society and of all relevant books and papers.

(3) Every director, manager, officer, agent or employee of the society or other person who on examination under this section refuses to answer any question relating to affairs of the society or to produce any book or paper in his custody commits an offence against this Act.

(4) The Executive Council Member may upon a report from the registrar or after an investigation order, subject to such terms and conditions as he thinks advisable, that the society discontinue any illegal action or, if a social club, conduct itself in a proper manner, as the case may be, and may, subject to such terms and conditions as he thinks advisable, suspend any of the powers of the society.

**Inspection and proof of filed documents**

51.(1) Any person may inspect the documents filed in the office of the registrar relating to a society on payment of the prescribed fee for each inspection, and may require a copy, extract or a certified true copy of any document or part thereof on payment of the prescribed fee.

(2) A copy of or extract from any document filed in the office of the registrar, certified to be a true copy under the hand and seal of the registrar, shall in all legal proceedings be admissible in evidence as of equal validity with the original document, and it shall not be necessary to prove the handwriting, seal of office or official position of the person certifying the same.

**Service on a society**

52. A document may be served on a society by leaving it at or mailing it by registered or certified mail to the address of the society as registered under this Act, or by serving a director or officer of the society.

**Offence**

53. Every society that fails, refuses or neglects to observe or perform any duty or obligation or that violates any restriction or prohibition created or imposed by this Act and the regulations made thereunder commits an offence against this Act.

**Penalty**

54. Every society which commits an offence against this Act or the regulations is liable on summary conviction to a penalty not exceeding \$500.

**Distress for penalty**

55.(1) Where a society is convicted of any offence against this Act or the regulations and the conviction adjudges a pecuniary penalty to be paid by the society, the justice by the conviction after adjudging payment of such penalty with costs may order and adjudge that in default of payment of such penalty forthwith or within a stipulated time such penalty shall be levied by distress and sale of the goods and chattels of the society.

(2) In any such case and in addition to the other remedies hereby provided, a copy of the conviction or order certified to by any justice or by the officer in whose custody the same is by law required to be kept may be filed in the office of the clerk of the Supreme Court and the conviction or order shall thereupon become a judgment of the Supreme Court and all proceedings therefrom may be taken and had as on any other judgment of the Supreme Court, but nothing herein contained shall be construed as in any way affecting, limiting or restricting any proceedings which otherwise may be taken for the recovery of fines and penalties.

**Responsibility of officers, agents and employees**

56. Where an offence against this Act or the regulations made thereunder is committed by a society, the officer, agent or employee of the society in charge of the premises in which the offence is committed shall prima facie be deemed to be a party to the offence so committed and shall be personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this section shall relieve the society or the person who actually committed the offence from liability therefor.

**Fees**

57. The Commissioner in Executive Council may prescribe the fees to be charged under this Act.

**Regulations**

58.(1) For the purpose of carrying into effect the provisions of this Act according to their true intent, the Commissioner in Executive Council may make such regulations as he considers necessary or advisable.

(2) Without thereby limiting the generality of subsection (1), the Commissioner in Executive Council may make regulations

- (a) prescribing the terms and conditions of contracts between societies and their employees;
- (b) prescribing the method of inspection of societies' books of accounts and records;
- (c) prescribing the qualifications to be held by any servant or employee of any society;
- (d) prescribing the minimum membership fees and dues payable to any society by its members;
- (e) in the case of a society whose objects include the operation of a social club, prescribing or limiting the form of social or recreational activity which may be made available to its members.



# CHAPTER 163

## STUDENTS FINANCIAL ASSISTANCE ACT

### Interpretation

1. In this Act,

“approved institution” means

- (a) any institution which is an eligible institution for the purpose of the Canada student loans program,
- (b) any vocational or technical school which offers courses, approved by the Canada Employment and Immigration Commission, that are not available in the Yukon, or
- (c) any educational institution recommended by the committee and prescribed by the Commissioner in Executive Council as an approved institution;

“committee” means the Students Financial Assistance Committee established pursuant to section 4;

“dependent student” means a student who satisfies the requirements of subsection 6(2);

“independent student” means a student who satisfies the requirements of subsection 6(3);

“new resident student” means a student who satisfies the requirements of subsection 6(4);

“student” means a person who is enrolled or registered in a program of studies at an approved institution;

“students financial assistance officer” means that member of the public service as the Executive Council Member may designate to act as such;

“Yukon school system” means that system of schools as defined in section 2 of the School Act.

### Financial assistance

2. Subject to this Act, the Executive Council Member may provide financial assistance of the type and amount, and under such terms and conditions as provided for under this Act, to any student who is eligible for such assistance pursuant to this Act for the purpose of enabling that student to pursue, on a full-time basis, a program of studies at an approved institution.

### Appropriation

3. Financial assistance under this Act shall be paid out of money appropriated by the Legislature for that purpose.

### Students Financial Assistance Committee

4.(1) There shall be a committee, called the Students Financial Assistance Committee, consisting of a chairperson and not less than five other members as may be appointed by the Commissioner in Executive Council.

(2) Every member of the committee shall be appointed for a term of three years, and, following the expiration of that term, is eligible for re-appointment.

(3) In appointing members to the committee, the Commissioner in Executive Council shall appoint, where possible, not less than two members who have held previous appointments as members of the committee.

(4) A majority of the members of the committee constitutes a quorum.

(5) The committee may make such rules, not inconsistent with this Act, as are necessary for the conduct of the business of the committee and the management of its internal affairs.

**Appeals and other jurisdiction of the committee**

5.(1) The committee shall hear appeals under subsection (2) and perform such other functions as are set out in this Act.

(2) A person may appeal a decision of the students financial assistance officer under this Act to the committee, and the committee may confirm or vary the decision of the officer.

(3) The Commissioner in Executive Council shall prescribe the procedural rules to be followed in respect of appeals under this section.

**Eligibility for financial assistance**

6.(1) To be eligible for financial assistance under this Act, a student shall make an application to the students financial assistance officer and establish, to the satisfaction of the students financial assistance officer that

- (a) he is enrolled or registered as a student in a program of studies at an approved institution,
- (b) he qualifies for financial assistance as a dependent student, as an independent student or as a new resident student under this section, and
- (c) he is not disqualified under any provision of this Act.

(2) A student is eligible to receive financial assistance as a dependent student in respect of a quarter, semester or academic year in a program of studies at an approved institution where, at the date of the commencement of his classes in the quarter, semester or academic year, at least one of his parents is a Canadian citizen or landed immigrant who has resided in the Yukon continuously during the immediately preceding period of two years, and

- (a) he is less than 19 years of age, or
- (b) he is 19 years of age, he has resided in the Yukon continuously during the immediately preceding period of one year, and he has previously received financial assistance as a dependent student.

(3) A student is eligible to receive financial assistance as an independent student in respect of a quarter, semester or academic year in a program of studies at an approved institution where

- (a) he has completed two years of secondary education in the Yukon school system or he has received financial assistance as a dependent student under subsection (2), and
- (b) he has resided in the Yukon continuously during the period of two years immediately preceding the date of commencement of his classes in that quarter, semester or academic year.

(4) A student is eligible to receive financial assistance as a new resident student in respect of a quarter, semester or academic year in a program of studies at an approved institution where

- (a) he is less than 19 years of age when he and at least one of his parents take up residence together in the Yukon, and in the opinion of the students financial assistance officer, he is in fact a dependent of that parent at that time,
- (b) he completes one year of secondary education in the Yukon school system and commences his program of studies at an approved institution before he attains the age of 19 years, and
- (c) at the date of the commencement of his classes in the quarter, semester or academic year,
  - (i) both he and at least one of his parents have resided in the Yukon continuously since taking up residence in the Yukon under paragraph (a), and
  - (ii) he is less than 24 years of age.

(5) For the purposes of this section, a student who is residing in the Yukon immediately prior to the date of the student's commencement of a program of studies in respect of which financial assistance is paid to the student under this Act shall be deemed to continue to reside in the Yukon during any immediately subsequent period during which he is absent from the Yukon to pursue his program of studies.

(6) For the purposes of paragraphs (2)(b), (3)(b) and (4)(c), a student does not become ineligible for financial assistance only because he interrupts his studies and is absent from the Yukon for a period of time, not exceeding one academic year.

### **Special cases**

7.(1) Notwithstanding section 6, the committee may recommend to the Executive Council Member the payment of financial assistance to a student who is not otherwise eligible under this Act where, in the opinion of the committee,

- (a) his ineligibility under subsection 6(2) or (4) is entirely the result of the death of one or both of his parents,
- (b) his ineligibility under subsection 6(2) or (4) is entirely the result of some technical defect in his guardianship, but at least one of the persons standing in the place of his parents satisfies the requirements of paragraph 6(2)(b) or paragraphs 6(4)(a) and (c), as the case may be, or
- (c) his ineligibility under paragraph 6(2)(b) or subsection 6(3) or (4) is entirely the result of extraordinary medical, educational or similar reasons that make it reasonably necessary for him to be absent from the Yukon.

(2) The committee shall not recommend any payment of financial assistance under subsection (1) to a student who is eligible for financial assistance in another province or country, or where the student does not, in the opinion of the committee, have a close and substantial connection with the Yukon.

(3) The Executive Council Member may, upon the recommendation of the committee under subsection (1), provide financial assistance of the type and amount and under such terms and conditions as provided for under this Act to any student for the purpose of enabling that student to pursue, on a full-time basis, a program of studies at an approved institution.

**Amount of financial assistance**

8.(1) In determining the eligibility of a student for financial assistance under this Act, the financial needs of the student shall not be considered.

(2) Subject to subsection (3), any financial assistance provided a student under this Act shall not exceed the aggregate of

- (a) the amount of all fees, including registration, tuition, library, laboratory and student fees as assessed by an approved institution, to a maximum of the prescribed amount per quarter, semester or academic year,
- (b) the prescribed sum per quarter, semester or academic year, to assist in defraying the cost of books, supplies and special clothing required by the student in his program of studies at an approved institution, and
- (c) a living allowance in the prescribed amount per quarter, semester or academic year.

(3) Where a student receives financial assistance in respect of any quarter, semester or academic year and does not attain a 65 percent average or the equivalent in his program of studies during that quarter, semester or academic year, the amount of financial assistance provided to him in respect of his next ensuing period of eligibility shall not exceed 60 percent of the aggregate amount determined pursuant to subsection (2) unless, before he applies again for financial assistance under this Act, he attains an average of 65 percent or the equivalent in a subsequent quarter, semester, or academic year.

(4) Where a student in receipt of financial assistance under this Act is pursuing a program of studies at an approved institution outside the Yukon, that student may be paid, in addition to such financial assistance,

- (a) an allowance in respect of travel equivalent to the cost of one return air fare per calendar year between
  - (i) Vancouver or Edmonton, and
  - (ii) Watson Lake or Whitehorse

as the students financial assistance officer may determine, and

- (b) an allowance, as may be prescribed by regulation, in respect of travel between
  - (i) Watson Lake or Whitehorse, as the committee may determine, and
  - (ii) the residence of that student in the Yukon.

(5) Where a student in receipt of financial assistance under this Act is pursuing a program of studies offered within the Yukon by an approved institution, that student may be paid, in addition to such financial assistance, an allowance, as may be prescribed by regulation, in respect of travel between

- (a) the place where the program is offered, and
- (b) the residence of that student in the Yukon.



(6) Any financial assistance provided a student under this Act is payable to the student in such amounts and at such times as may be prescribed, subject to the aggregate amount determined pursuant to subsections (2) and (3) and the travel allowance determined pursuant to subsections (4) and (5).

(7) Different amounts may be prescribed in respect of quarters, semesters and academic years under subsection (2).

### **Limits to financial assistance**

9.(1) No student is eligible to receive financial assistance under this Act for more than

- (a) five academic years in any approved institution where an academic year constitutes not more than one-half a calendar year in either of any two consecutive calendar years,
- (b) ten semesters in any approved institution where two semesters constitute an academic year notwithstanding that there are three semesters in a calendar year, or
- (c) 15 quarters in any approved institution where three quarters constitute an academic year notwithstanding that there are four quarters in a calendar year.

(2) No student is eligible to receive financial assistance under this Act where that student is receiving any financial assistance from the Government of the Yukon or the Government of Canada for post-secondary education other than special scholarship awards or loans.

(3) No student is eligible to receive financial assistance under this Act if he is not a Canadian citizen or landed immigrant, except as provided by subsection 6(2).

### **Applications for financial assistance**

10.(1) Every student applying for financial assistance under this Act shall make such application on the prescribed form no later than six weeks after the date of commencement of classes in his program of studies at an approved institution.

(2) The student shall furnish such information, transcript or document in support of the application referred to in subsection (1) as may be prescribed.

(3) Where a student establishes that in consequence of unforeseen or unfortunate circumstances he or she did not apply within the time fixed by subsection (1), he or she may apply for and may, if otherwise eligible, be granted financial assistance notwithstanding the expiration of the time fixed by subsection (1).

### **Administration of private scholarship funds**

11.(1) The committee may, where requested by any donor of funds establishing a private scholarship, act as a selection committee for the granting of any award under the terms of that scholarship to any student applying for financial assistance under this Act.

(2) Where a student applying for financial assistance under this Act qualifies for an award under the terms of a scholarship referred to in subsection (1), the committee may

- (a) recommend to the donor thereof the granting of the award to that student, and

- (b) at the request of the donor thereof, transmit to that student the amount of the award so granted.

**Canada student loans**

12. The students financial assistance officer shall,

- (a) in accordance with the Canada student loans program administrative criteria, consider each application arising within the Yukon for a student loan under the Canada Student Loans Act (Canada),
- (b) approve or refuse to approve loans on the basis of that criteria, and
- (c) advise the committee, on a monthly basis, of
  - (i) all applications approved under the Canada Student Loans Act (Canada) and the total amount of the loans so approved,
  - (ii) any application under the Canada Student Loans Act (Canada) which has been refused, together with the reasons therefore, and
  - (iii) any loan made under the Canada Student Loans Act (Canada) which was of a lesser amount than the amount applied for, together with the reasons therefore.

**Appeal to committee concerning student loan**

13.(1) A student whose application for a student loan under the Canada Student Loans Act (Canada) to the students financial assistance officer has been refused or whose loan was a lesser amount than the amount applied for may appeal his case to the committee.

(2) The committee shall act as the appeal authority in any case arising under subsection (1), and may confirm or vary any decision of the students financial assistance officer respecting the eligibility for or amount of any loan applied for under the Canada Student Loans Act (Canada) so appealed.

(3) The committee may make recommendations to the Executive Council Member concerning interpretation of the administrative criteria to be applied in assessing applications for financial assistance under the Canada student loans program.

**Regulations**

14.(1) The Commissioner in Executive Council may make regulations

- (a) prescribing educational institutions recommended by the committee as approved institutions;
- (b) prescribing the procedure and the form to be utilized respecting applications for financial assistance under this Act;
- (c) prescribing the manner of payment of any financial assistance and the amount of any allowance in respect of travel provided under this Act;
- (d) prescribing such powers, duties and administrative guidelines for the committee and the students financial assistance officer as are not inconsistent with this Act.

(2) The Commissioner in Executive Council may make regulations providing for the payment of training allowances and assistance to persons attending full time courses in the Yukon not sponsored by the Government of Canada or an agency thereof.

# CHAPTER 164

## SUMMARY CONVICTIONS ACT

### Interpretation

1. In this Act,

“complaint” means the complaint part of a ticket issued under this Act;

“enactment” has the same meaning as in the Interpretation Act;

“notice to appear” means the notice to appear part of a ticket issued under this Act;

“summons” means a summons issued in respect of an offence against an enactment.

### Application and effect of Act

2.(1) Subject to subsection (2), this Act applies to every enactment.

(2) The provisions of this Act do not prevail over the provisions of any other Act.

### General offence and penalty

3.(1) A person who contravenes an enactment by doing an act that it forbids, or by omitting to do an act that it requires to be done, commits an offence against the enactment.

(2) A person who commits an offence against an enactment is liable on summary conviction to a fine of \$500 or to imprisonment for 6 months, or both, except as otherwise specially provided in the enactment.

### Attempts

4.(1) A provision in any enactment which creates or results in the creation of an offence shall be deemed to include a provision that an attempt to commit the offence shall itself constitute an offence which may be dealt with and punished in like manner as if the offence has been committed.

(2) A person charged with an offence may be convicted of having attempted to commit that offence although he or she was not charged with the attempt.

### Parties

5.(1) Every one is a party to an offence who

(a) actually commits it,

(b) does or omits to do anything for the purpose of aiding any person to commit it, or

(c) abets any person in committing it.

(2) Where two or more persons form an intention in common to carry out an unlawful purpose and to assist each other therein and any one of them, in carrying out the common purpose, commits an offence, each of them who knew or ought to have known that the commission of the offence would be a probable consequence of carrying out the common purpose is a party to that offence.

**Counselling or procuring**

6.(1) Where a person counsels or procures another person to be a party to an offence and that person is afterwards a party to that offence, the person who counselled or procured the other is a party to the offence, notwithstanding that the offence was committed in a way different from that which was counselled or procured.

(2) Every person who counsels or procures another person to be a party to an offence is a party to every offence that the other commits in consequence of the counselling or procuring that the person who counselled or procured knew or ought to have known was likely to be committed in consequence of the counselling or procurement.

**Criminal Code provisions**

7.(1) Subject to this Act, the provisions of the Criminal Code (Canada), in force from time to time, relating to summary convictions and extraordinary remedies apply mutatis mutandis to proceedings in respect of an offence against an enactment.

(2) Notwithstanding subsection (1), the provisions of the Criminal Code (Canada) in force on April 30, 1978, relating to appeals in respect of summary convictions apply mutatis mutandis to appeals from proceedings in respect of an offence against an enactment.

(3) Any matter or thing seized pursuant to an enactment shall, if no other provision is made respecting it, be dealt with according to the provisions of the Criminal Code (Canada).

(4) For the purpose of this section, "proceedings" includes proceedings commenced by means of a ticket issued under this Act.

**Jurisdiction**

8.(1) Proceedings in respect of an offence against an enactment may be brought before a justice.

(2) Subsection (1) does not apply to proceedings in the nature of an appeal from or review of proceedings in respect of an offence against an enactment.

**ISSUANCE OF TICKETS**

**Use of tickets**

9.(1) Instead of the procedure set out in the Criminal Code (Canada) for the commencement of proceedings by laying an information, proceedings in respect of an offence specified in the regulations, or in respect of an offence against a municipal bylaw specified in a municipal bylaw, may be commenced by means of a ticket issued under this Act.

(2) A ticket shall be in at least two parts, namely,

- (a) a complaint, and
- (b) a notice to appear.

(3) For the purposes of subsections 7(1) and 9(1), a complaint shall be dealt with as if it were an information, except that

- (a) it need not be laid before a justice,

- (b) it need not be made under oath, and
- (c) it shall not charge more than one offence or relate to more than one matter of complaint.

### **Issuance and contents of tickets**

10.(1) A ticket may be issued by a peace officer or any other person having responsibility for the enforcement of any provision of an enactment, and the signature on a ticket of the person who issued the ticket is prima facie proof of his authority to issue the ticket.

- (2) The person who issues a ticket shall, on the ticket,
  - (a) set out the name of the person to whom the ticket is issued,
  - (b) describe the offence that the person to whom the ticket is issued is alleged to have committed, and
  - (c) specify the day on which, and the place where, the offence is alleged to have been committed.

(3) The description of an offence on a ticket by the person who issued the ticket shall be deemed to be sufficient for all purposes if the offence is described

- (a) by using a general word or expression,
- (b) by referring to a provision of an enactment,
- (c) by marking or identifying a word or expression printed on the ticket, or
- (d) by using any word, expression or symbol authorized by the regulations for the description of the offence.

(4) Notwithstanding paragraph (2)(a), where a ticket is issued in relation to an offence with respect to the parking of a vehicle or with respect to leaving a vehicle unattended, the person who issues the ticket need not set out the name of the person to whom the ticket is issued, but he shall set out on the ticket

- (a) the licence number of the vehicle, if a licence plate is attached to the vehicle, or
- (b) a description of the vehicle sufficient to distinguish it from other vehicles.

### **Notice to appear and summons**

11.(1) A notice to appear shall contain

- (a) a statement as to the time and place at which the person to whom the ticket was issued is to appear in court in person or by agent to answer to the charge specified on the ticket, and
- (b) an endorsement to the effect that the person may plead not guilty by signing the plea of not guilty on the notice to appear, and delivering the notice, within the time specified in the notice, to the place specified in the notice.

(2) For the purposes of section 7, a notice to appear shall be dealt with as if it were a summons.

(3) A summons may be issued in respect of a complaint.

(4) A summons issued in respect of a complaint may be served in any manner in which a ticket may be served under this Act.

## SERVICE OF TICKETS

### Time for service

12.(1) Where a ticket is issued, it shall be served within 30 days after the day on which the offence is alleged to have been committed.

(2) A ticket may be served on a holiday.

(3) This section applies to the service of a summons issued in respect of a complaint, except a summons issued under section 24.

### Manner and effect of service

13.(1) A ticket may be served on the person to whom it was issued

- (a) by delivering the notice to appear to the person,
- (b) by mailing the notice to appear to the person by registered or certified mail to his last known post office address, or
- (c) by leaving the notice to appear at the last or usual place of abode of the person with some inmate thereof who appears to be at least 16 years of age.

(2) Service of a ticket in accordance with this section shall be deemed to be personal service of the ticket on the person to whom the ticket was issued.

(3) Upon the service of a ticket under paragraph (1)(a), the person to whom the ticket was issued shall be requested to sign the complaint, but his failure or refusal to sign as requested does not invalidate the complaint or the service of the ticket.

(4) Subject to sections 23 and 24, a ticket served in accordance with paragraph (1)(b) shall be deemed to have been served on the seventh day after the day on which the notice to appear is mailed.

### Parking tickets

14.(1) Where a ticket is issued in relation to an offence with respect to the parking of a vehicle, or with respect to leaving a vehicle unattended, the ticket may be served in accordance with section 13 or by attaching the notice to appear to the vehicle.

(2) Service of a ticket in accordance with this section shall be deemed to be personal service of the ticket on the owner of the vehicle in respect of which the ticket was issued, and the owner of the vehicle shall be deemed to be the person to whom the ticket was issued for the purposes of this Act.

### Last known address

15.(1) For the purposes of subsection 13(1), where a ticket is issued to a person and the post office address of the person appears in any records maintained by the Government of the Yukon or the municipality, under the enactment in respect of which the ticket is issued, that address shall be deemed to be a last known post office address of the person unless it is shown that the person who issued the ticket knew of a more recent post office address of the person.

(2) A copy of any entry in a record to which subsection (1) applies purporting to be signed by a person having custody of the record shall be accepted as evidence of the information contained therein without proof of the signature of the person or of his official capacity.

**Certificates and affidavits of service**

16.(1) Where service of a ticket is made under paragraph 13(1)(a) or subsection 14(1), the person who served the ticket shall

- (a) certify on the complaint that he delivered the notice to appear to the person to whom the ticket was issued or that he attached the notice to appear to the vehicle, as the case may be, and the date of service, or
- (b) complete an affidavit of service in the prescribed form.

(2) Where service of a ticket or a summons issued in respect of a complaint is made otherwise than under paragraph 13(1)(a) or subsection 14(1), the person who served the ticket or summons shall complete an affidavit of service in the prescribed form.

**Proof of service**

17. An affidavit or certification of service purporting to be signed by the person who served the ticket or summons shall be received in evidence and is proof of service in the absence of evidence to the contrary.

**Not guilty plea and notice of trial**

18.(1) Where a plea of not guilty is signed, and the notice to appear is delivered, pursuant to paragraph 11(1)(b),

- (a) a notice of trial in the prescribed form shall be served upon the person as soon as it is practicable to do so, and
- (b) except as provided by paragraph (a), the person to whom the ticket was issued is not required to appear in court to answer to the charge.

(2) A notice of trial may be served in any manner in which a ticket may be served under this Act.

**PROCEEDINGS UPON TICKETS**

**Delivery to justice**

19.(1) Where a ticket, other than a ticket containing an endorsement under section 20, has been served under section 13 or 14, the complaint shall be delivered to a justice as soon as possible after the ticket has been served.

(2) Where a ticket containing an endorsement under section 20 has been served under section 13 or 14 and the specified fine is not delivered in accordance with subsection 20(2), the complaint shall be delivered to a justice as soon as possible after the expiration of the time specified for the delivery of the fine.

**Voluntary fine**

20.(1) Where authorized by the regulations or a municipal bylaw, the complaint and notice to appear parts of a ticket may contain an endorsement to the effect that the person to whom the ticket is issued may pay the fine specified on the ticket instead of appearing in court to answer to the charge.

(2) Notwithstanding any other provision of this Act, where a person is served with a notice to appear endorsed as provided by subsection (1), he is not required to appear in court to answer to the charge if, within the time specified in the notice, he delivers to the place specified in the notice,

- (a) the fine specified in the notice, and
- (b) sufficient information to identify himself and the ticket in respect of which he is paying the fine.

(3) Upon the delivery of a fine in accordance with subsection (2), the person to whom the ticket was issued shall be deemed to have made a plea of guilty and he shall be deemed to have been convicted of the offence described on the ticket.

(4) Where a fine is delivered after the expiration of the time specified for delivery in the notice to appear and a plea of guilty has not been entered under section 21, a justice may, without a hearing and notwithstanding any action he may have taken under section 32, direct that the fine be accepted as if it had been delivered within the time specified.

(5) Subject to section 31, a peace officer or any other person having responsibility for the enforcement of any provision of an enactment, may issue a ticket in respect of an offence to which this section applies requiring the person to whom the ticket is issued to appear in court to answer to the charge, without the option of paying a fine as set out in subsection (2), but the endorsements referred to in subsection (1) and section 21 shall not appear on a ticket issued under this subsection.

(6) Where a ticket endorsed under subsection (1) is served under paragraph 13(1)(a), the person who serves the ticket shall not receive payment of any money in respect of the payment of the specified fine under this section.

#### **Automatic conviction**

21.(1) Where authorized by the regulations, the complaint and notice to appear parts of a ticket endorsed as provided by subsection 20(1) may contain also an endorsement to the effect that, if the person to whom the ticket is issued does not deliver the fine specified on the ticket in accordance with the endorsement or appear in court to answer to the charge

- (a) the person may be convicted, in his absence, of the offence specified in the ticket, and
- (b) a fine in an amount equal to twice the amount of the specified fine may be imposed upon him.

(2) Subject to section 23, where a person who has been served with a ticket containing an endorsement under subsection (1) does not appear in person or by agent to answer to the charge at the time stated in the notice to appear, and the specified fine is not delivered in accordance with subsection 20(2), a justice may, upon proof of the service of the ticket in accordance with section 13 or 14, as the case may be, enter a plea of guilty on behalf of the person.

#### **Conviction and fine**

22.(1) Upon the entry of a plea of guilty on behalf of a person under subsection 21(2), the justice shall examine the complaint, and where the justice is satisfied that

- (a) the complaint is complete and regular on its face,



- (b) payment has not been made under section 20,
- (c) a plea of not guilty has not been signed and delivered under paragraph 11(1)(b), and
- (d) the person has not been excused from the need to appear in court under section 31,

the justice shall enter a conviction in the absence of the person, and shall impose upon the person a fine that shall be in an amount not less than the amount of the fine specified on the ticket under subsection 20(1) and that may be in an amount as great as twice the amount specified on the ticket under subsection 20(1).

(2) Where the justice is not able to enter a conviction under subsection (1), he shall quash the proceeding.

### **Reopening on failure of notice**

23.(1) Notwithstanding section 22, where a plea of guilty is entered on behalf of a person under section 21 and the person was served with the ticket otherwise than under paragraph 13(1)(a), the person may appear before a justice and apply to have his conviction and fine set aside, and if it appears to the justice that the person in fact did not receive notice of his obligation to pay the specified fine or to appear in court to answer to the charge at the time stated in the notice to appear, the justice may

- (a) set aside the conviction and fine, and permit the person to enter a plea of guilty or not guilty,
- (b) refuse to set aside the conviction and fine, or
- (c) confirm the conviction, hear such submissions as to penalty as the justice may desire to hear, and confirm the fine or impose such lesser fine as the justice may deem appropriate.

(2) The justice may require submissions under paragraph (1)(c) to be made under oath, orally or by affidavit.

(3) An application under subsection (1) shall not be made after the expiration of 15 days after the day on which the person receives notice of his conviction or fine.

(4) An appeal lies to the Supreme Court in respect of the refusal of a justice to set aside a conviction and fine under subsection (1).

### **Arrest for failure to appear**

24.(1) Where a person who has been served with a ticket under section 13 is required to appear in person or by agent to answer to the charge and he does not do so, a justice may, upon proof of the service of the ticket in accordance with section 13, issue a warrant for the arrest of the person.

(2) Where a person has been served with a ticket under paragraph 13(1)(b) or (c) and is arrested upon a warrant issued under subsection (1), he shall be taken before a justice within a period of 24 hours after the arrest or as soon as possible thereafter, and if it appears to the justice that the person in fact did not receive notice of his obligation to appear in court in person or by agent to answer to the charge, the justice shall issue a summons to the person and order that the person be released from custody forthwith.

(3) No warrant for the arrest of a person under subsection (1) shall be issued unless the complaint is sworn.

**Complaint to be sworn before trial**

25. No trial shall be held in respect of proceedings commenced by means of a ticket issued under this Act until the complaint has been sworn.

**Evidence**

26.(1) To the extent that the form of one part of a ticket prescribed for use under this Act corresponds with the form of another part of the ticket, a justice may infer from the information set out in one part of a ticket produced to him that the same information is set out in any part of the ticket not produced to him.

(2) Failure to complete any information required in a complaint does not invalidate the complaint if

- (a) the person to whom the ticket is issued is identified with reasonable clarity,
- (b) the offence with which the person is charged is described adequately,
- (c) the date when the offence is alleged to have occurred is specified with reasonable accuracy, and
- (d) the place where the offence is alleged to have occurred is specified with reasonable precision.

**RECOVERY OF FINES**

**Fine becomes debt due**

27.(1) Where a fine, or any part of a fine, imposed upon a person under any Act is not paid within 15 days after its imposition, or within such other time as may be allowed for its payment, the fine shall be deemed to be a debt due

- (a) in the case of an offence against a municipal bylaw, to the municipality, and
- (b) in the case of an offence other than an offence against a municipal bylaw, to the Government of the Yukon,

and upon the proof of the non-payment of the fine, a justice shall grant default judgment in favour of the municipality or the Government of the Yukon, as the case may be.

(2) Where a default judgment is granted under subsection (1), the justice shall complete a default judgment in the prescribed form, and upon the filing of the default judgment with the Territorial Court it shall be deemed to be a judgment of that court for all purposes.

(3) A default judgment shall not be granted under this section after two years after the day on which the fine was to be paid in full.

**Attachment of debts**

28.(1) Where the Executive Council Member has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person indebted to the Government of the Yukon under section 27, the Executive Council Member may, by notice in the prescribed form, require him to pay to the Government of the Yukon, in whole or in part, the money otherwise payable to the person indebted to the Government of the Yukon.

(2) Money received by the Executive Council Member under subsection (1) in respect of the indebtedness of a person under section 27 shall be applied only on account of that indebtedness, and the receipt of the Executive Council Member for money paid under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Where the Executive Council Member has, under this section, required an employer to pay to the Government of the Yukon on account of an employee's indebtedness to the Government of the Yukon under section 27 money otherwise payable by the employer to the employee as remuneration, the requirement

- (a) applies consecutively to all future payments by the employer to the employee in respect of remuneration until the liability under section 27 is satisfied, and
- (b) operates to require payment, to the Government of the Yukon out of each payment of remuneration, of such amount as may be stipulated by the Executive Council Member in the notice.

(4) Every person who has discharged any liability to a person liable to the Government of the Yukon under section 27 in contravention of a requirement under this section is liable to pay to the Government of the Yukon an amount equal to the lesser of

- (a) the amount of the liability discharged, and
- (b) the amount that he was required to pay to the Government of the Yukon under this section.

### **Service of notice**

**29.**(1) A notice under subsection 28(1) may be served by delivering it to a person personally, or by mailing it to him at his last known post office address.

(2) Where a person who is or is about to become indebted or liable to a person indebted to the Government of the Yukon under section 27 carries on business under a name or style other than his own name, the notice under subsection 28(1) may be addressed to the name or style under which he carries on business and, in the case of personal service, the notice may be served by leaving it with an adult person employed at the place of business of the addressee.

(3) Where a person or persons who are or are about to become indebted or liable to a person indebted to the Government of the Yukon under section 27 carry on business in partnership, a notice under subsection 28(1) may be addressed to the name of the partnership and, in the case of personal service, the notice may be served by delivering it to one of the partners personally, or by leaving it with an adult person employed at the place of business of the partnership.

(4) Section 15 applies *mutatis mutandis* in respect of the mailing of a notice to a person under this section.

### **Garnishee Act**

**30.** Sections 22 and 23 of the Garnishee Act apply to and in respect of a requirement under section 28.

## GENERAL

**Appearance not required**

**31.** Notwithstanding any other provision of this Act, a person who has been served with a ticket or summons is not required to appear in court in person or by agent to answer to the charge at the time stated in the notice to appear or summons if, before that time,

- (a) where authorized by the regulations, he enters a plea of guilty before a justice in the manner and within the time period prescribed for doing so,
- (b) he enters a plea of not guilty in the manner and within the time period prescribed for doing so, or
- (c) he obtains an adjournment of the proceedings in accordance with the regulations.

**Failure to appear**

**32.(1)** Where a person who has been served with a ticket or summons is required to appear in person or by agent to answer to the charge and he does not do so at the time specified, a justice may, upon proof of the service of the ticket or summons, enter a plea of not guilty on behalf of the person, set a time convenient to the prosecutor for an ex parte hearing of the charge, and adjourn the proceedings to that time.

(2) Where a justice has set a time for an ex parte hearing of the charge, the justice may

- (a) further adjourn the proceedings from time to time, and
- (b) in all other respects conduct the proceedings and hear and determine the charge in the absence of the person who was required to appear in court in person or by agent as fully and effectually if the person had appeared in person or by agent.

**Revenue of the Government of the Yukon**

**33.** Any duty, penalty, fine or sum of money or the proceeds of a forfeiture under any enactment, if no other provision is made respecting it, constitutes revenue of the Government of the Yukon, and shall be paid into and form part of the Yukon Consolidated Revenue Fund.

**Municipal bylaws**

**34.** Subject to paragraphs 35(a) and (b), the council of a municipality may by bylaw

- (a) specify those provisions of its bylaws in respect of which proceedings may be commenced by means of a ticket issued under this Act,
- (b) specify those provisions of its bylaws in respect of which a person may be allowed to pay a fine instead of appearing in court, and set the amount of the fine for each such offence,
- (c) prescribe the forms of tickets to be used under paragraphs (a) and (b),
- (d) authorize the use on a ticket of any word, expression or symbol to designate any offence under paragraph (a) or (b), and
- (e) provide for any other matter necessary for the use of tickets.

**Regulations**

**35.** The Commissioner in Executive Council may make regulations

- (a) specifying the offences against enactments in respect of which proceedings may or may not be commenced by means of a ticket issued under this Act;

- (b) classifying offences and enactments, and for each class, specifying whether proceedings in respect of an offence may or may not be commenced by means of a ticket issued under this Act;
  - (c) prescribing the forms of tickets to be used;
  - (d) prescribing the procedure for the issuance of tickets;
  - (e) prescribing the manner in which a date for an appearance in court or trial date is to be determined;
  - (f) prescribing the procedure for the acceptance of pleas;
  - (g) prescribing how an offence may be indicated on a ticket;
  - (h) authorizing the use on a ticket of any word, symbol or expression to designate an offence;
  - (i) prescribing time periods under this Act;
  - (j) requiring the keeping of records and prescribing the manner in which those records are to be kept;
  - (k) specifying those offences in respect of which a person may be allowed to pay a fine instead of appearing in court, and setting the amount of the fine for each such offence;
  - (l) specifying those offences to which section 21 applies;
  - (m) prescribing the forms to be used for the purposes of this Act;
  - (n) providing for the extension of times under this Act in the event of a disruption of postal services;
  - (o) providing for any other matter he deems necessary for the administration of this Act.
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# **CHAPTER 165**

## **SUPREME COURT ACT**

### **Interpretation**

#### **1. In this Act,**

“Court” means the Supreme Court of the Yukon Territory established by this Act;

“judge” means the judge of the Court appointed by the Governor in Council pursuant to the Yukon Act (Canada) and includes a deputy judge of the Court and an ex officio judge of the Court.

### **Supreme Court established**

2. There shall be a superior court of record in and for the Yukon called the “Supreme Court of the Yukon Territory”.

### **Judges**

3.(1) The Court shall consist of two judges appointed by the Governor in Council and such ex officio judges and deputy judges as may be appointed from time to time by the Governor in Council.

(2) The judge first appointed shall establish such sittings and assign such judges or deputy judges to sittings as is required for the due dispatch of the business of the Court, and shall give such directions and notice as may be required.

### **Jurisdiction**

4.(1) The Court is a superior court of record having full civil and criminal jurisdiction throughout the Yukon.

(2) The Court shall, throughout the Yukon, have and may exercise in all cases, all the powers, duties and functions that were vested in the Territorial Court of the Yukon Territory immediately prior to the commencement of this Act.

(3) A judge of the Court shall, throughout the Yukon, have and may exercise all the powers, duties and functions that are vested in the Court.

### **Sittings**

5.(1) Sittings of the Court shall be held at such times and places as the judge of the Court deems necessary.

(2) The Court may sit in the Northwest Territories for the purpose of hearing a civil case other than a civil case where the Court sits with a jury.

(3) When the Court sits in the Northwest Territories the Court has and may exercise all the powers, duties and functions in the Northwest Territories that it has and may exercise when sitting in the Yukon.

**Oaths of judges**

6. Every judge shall before assuming the duties of his office, take and subscribe before a judge of the Court, the Commissioner or a person appointed by the Commissioner in Executive Council for that purpose, the following oath: "I ..... do solemnly and sincerely promise and swear that I will duly and faithfully and to the best of my skill and knowledge execute the powers and trusts reposed in me as one of the judges of the Supreme Court of the Yukon Territory. So help me God."

**Judgment after resignation**

7.(1) Where a judge of the Court has resigned his office and a case that has been fully heard by that judge stands for judgment, he may within two months after his resignation give judgment therein as if he were still a judge.

(2) Any judgment referred to in subsection (1) is of the same force and validity as if the former judge were still a judge.

**Appointment of officers**

8. The Commissioner in Executive Council may appoint the clerk of the Court, the sheriff and such other officers as he deems necessary for the due administration of justice and the dispatch of business of the Court.

**References to the Territorial Court**

9. Where in any statute, or in any order, rule or regulations made thereunder, reference is made to

- (a) the Territorial Court of the Yukon Territory,
- (b) a court constituted by statute and exercising within the Yukon the jurisdiction, powers and authority exercised within the Yukon by the Territorial Court of the Yukon Territory at the date of the passing of such statute, or
- (c) a judge thereof,

the reference shall be taken to mean and to refer to the court established by this Act or to a judge of the Court as the case may be.

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# **CHAPTER 166**

## **SURVIVAL OF ACTIONS ACT**

### **Interpretation**

1. In this Act, "cause of action" means the right to institute a civil proceeding, and includes a civil proceeding instituted before death, but does not include a prosecution for contravening an Act, regulation or bylaw.

### **Causes of action of deceased person**

2.(1) All causes of action vested in a person who dies after the commencement of this Act, survive for the benefit of his estate.

(2) The rights conferred by subsection (1) are in addition to and not in derogation of any rights conferred by the Fatal Accidents Act.

### **Causes of action against deceased**

3. All causes of action subsisting against a person who dies after the commencement of this Act survive against his estate.

### **Preservation of action**

4. Where damage has been suffered by reason of an act or omission as a result of which a cause of action would have subsisted against a person if that person had not died before or at the same time as the damage was suffered, there is deemed to have been subsisting against him before his death whatever cause of action as a result of the act or omission would have subsisted if he had not died before or at the same time as the damage was suffered.

### **Recoverable damages**

5. Where a cause of action survives for the benefit of the estate of a deceased person, only damages that have resulted in actual pecuniary loss to the deceased person or the estate are recoverable and, without restricting the generality of the foregoing, the damages recoverable shall not include punitive or exemplary damages or damages for loss of expectation of life, for pain and suffering or for physical disfigurement.

### **Calculation of damages**

6. Where the death of a person was caused by the act or omission that gave rise to the cause of action, the damages shall be calculated without reference to any loss or gain to his estate consequent on his death, except that there may be included in the damages awarded an amount sufficient to cover the reasonable expenses of the funeral and the disposal of the body of the deceased if those expenses were, or liability therefor was, incurred by the estate.

### **Nature of action**

7. Every cause of action that survives under this Act and every judgment or order thereon or relating to the costs thereof is an asset or liability, as the case may be, of the estate for the benefit of which or against which the action was taken or the judgment or order made.

**Administrator ad litem**

8.(1) Where a cause of action survives against the estate of a deceased person and there is no personal representative of the deceased person against whom such an action may be brought or continued in the Yukon, the Supreme Court may,

- (a) on the application of a person entitled to bring or continue such an action, and
  - (b) on such notice as the Supreme Court may consider proper,
- appoint an administrator ad litem of the estate of the deceased person.

(2) The administrator ad litem is an administrator against whom such an action may be brought or continued and by whom such an action may be defended.

(3) The administrator ad litem as defendant in any such action may take any steps that a defendant may ordinarily take in an action, including third party proceedings and the bringing, by way of counter-claim, of any action that survives for the benefit of the estate of the deceased person.

(4) Any judgment obtained by or against the administrator ad litem has the same effect as a judgment in favour of or against the deceased person or his personal representative, as the case may be, but it has no effect for or against the administrator ad litem in his personal capacity.

**Limitation periods**

9.(1) Notwithstanding the Limitation of Actions Act or any other Act limiting the time within which an action may be brought, a cause of action that survives under this Act is not barred until the expiry of the period provided by this section.

- (2) Proceedings on a cause of action that survives under section 2 or 3 may be brought
- (a) within the time otherwise limited for the bringing of the action, or
  - (b) within one year from the date of death,
- whichever is the longer period.

- (3) Proceedings on a cause of action that survives under section 4 may be brought
- (a) within the time otherwise limited for the bringing of the action, which shall be calculated from the date the damage was suffered, or
  - (b) within one year from the date the damage was suffered,
- whichever is the longer period.

(4) This Act does not operate to revive any cause of action in or against a person that was barred at the date of his death.

**Crown**

**10. The Crown is bound by this Act.**

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# CHAPTER 167

## SURVIVORSHIP ACT

### **Disposition of Property**

1.(1) Where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, for all purposes affecting the legal or beneficial title to, ownership of, or succession to, property, the property of each person, or any property of which he is competent to dispose, shall be disposed of as if he had survived the other or others.

(2) Unless a contrary intention appears, where two or more persons hold legal title to property as joint tenants, or with respect to a joint account, with each other, and all of them die at the same time or in circumstances rendering it uncertain which of them survived the other or others, each person is for the purposes of subsection (1), deemed to have an equal share with the other or with each of the others in that property.

(3) Where a will contains a provision for a substitute personal representative operative if an executor designated in the will

- (a) dies before the testator,
  - (b) dies at the same time as the testator, or
  - (c) dies in circumstances rendering it uncertain which of them survived the other,
- and the designated executor dies at the same time as the testator or in circumstances rendering it uncertain which of them survived the other, then, for the purpose of probate, the case for which the will provides is deemed to have occurred.
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# CHAPTER 168

## TENANTS IN COMMON ACT

### **Owners to hold as tenants in common unless other intention**

1. Where by letters patent, transfer, conveyance, assurance, will or other assignment, land or an interest in land is granted, transferred, conveyed, assigned or devised to two or more persons other than executors or trustees in fee simple or for any less estate, legal or equitable, such persons shall take as tenants in common and not as joint tenants unless an intention sufficiently appears on the face of such letters patent, transfer, conveyance, assurance, will or other assignment that they are to take such land or interest in land as joint tenants.

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# **CHAPTER 169**

## **TERRITORIAL COURT ACT**

### **Interpretation**

1. In this Act,

“chief judge” means the judge designated as chief judge under section 47;

“court” means the Territorial Court of Yukon;

“deputy judge” means a judge who is not appointed to serve on a full-time basis;

“judge” means a judge of the court and includes a deputy judge;

“judicial council” means the Judicial Council of the Territorial Court established under section 16;

“justice” means a justice of the peace.

### **Establishment of the court**

2. There shall be in and for the Yukon a court called the Territorial Court of Yukon.

### **Judges of the court**

3. The court shall consist of such judges as may be appointed under this Act.

### **Jurisdiction**

4.(1) A judge has jurisdiction throughout the Yukon to exercise all the power conferred, and perform all the duties imposed on a judge of the Territorial Court, a magistrate, a justice or two or more justices sitting together, by or under an enactment of the Yukon or of Canada.

(2) For the purposes of the Young Offenders Act (Canada), the Territorial Court shall be deemed to have been designated as a youth court and every judge of the Territorial Court shall be deemed to have been designated a youth court judge.

(3) Every judge shall be deemed to have been specially authorized by the terms of his appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code (Canada).

(4) A judge is ex officio a notary public.

### **Civil matters**

5. The court shall have no jurisdiction in civil matters.

## **JUDGES**

### **Judges of the Supreme Court and Court of Appeal**

6. A justice of the Court of Appeal or a judge of the Supreme Court may sit as a judge of the Territorial Court and, where he does so, he is a judge of the Territorial Court.

**Appointment of judges**

7.(1) The Commissioner in Executive Council, on the recommendation of the judicial council, may appoint such judges as he considers necessary.

(2) A deputy judge may be appointed for a term of not more than five years recommended by the judicial council, but a deputy judge is not eligible for re-appointment after the expiration of his term except upon the recommendation of the judicial council.

(3) The terms of the appointment of every judge shall be judicially noticed.

**Qualifications**

8. A person shall not be appointed as a judge unless he is qualified to be named on the barristers and solicitors roll under the Legal Profession Act and

- (a) he has practised as a lawyer in the Yukon or a province for the period of five years immediately preceding the year in which he is to be appointed, or
- (b) he has other legal or judicial experience satisfactory to the judicial council.

**Oath of office**

9.(1) A judge, before entering on the duties of his office, shall swear or affirm an oath as follows before a judge of the Supreme Court: "I, ....., do solemnly swear that I will duly, faithfully and to the best of my skill and knowledge execute the powers and trusts reposed in me as a judge of the Territorial Court of Yukon for so long as I shall continue to hold office, without fear or favour, and that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors."

(2) The oath of office shall be transmitted forthwith to the Executive Council Member and filed in his office.

**Term of office**

10.(1) Subject to this Act, a judge holds office during good behaviour.

(2) Subject to this Act, where a deputy judge is appointed for a term the deputy judge holds office during good behaviour for the term of his appointment.

(3) A judge may resign by submitting to the Executive Council Member a written resignation to take effect on the date stated in the resignation.

(4) A judge ceases to hold office on attaining the age of 65 years.

**Extra-judicial activities**

11.(1) Except as otherwise authorized by the Commissioner in Executive Council, a judge other than a deputy judge shall devote himself exclusively to his judicial duties and shall not carry on directly or indirectly any other occupation, profession or business.

(2) Notwithstanding subsection (1), the Commissioner in Executive Council may, with the approval of the chief judge, assign other duties to a judge in place of some or all of his judicial duties in accordance with any conditions contained in the order assigning the judge.



(3) A judge shall not act as agent or lawyer in any proceedings before another judge or justice.

(4) A person who has ceased to hold office as a judge, other than as a deputy judge, shall not, within 12 months of the day he ceased to hold office, act as agent or lawyer in any proceedings before a judge or justice.

(5) Subject to this Act, a judge other than a deputy judge shall reside in the Yukon.

(6) No judge shall engage in any manner whatever in partisan political activities.

(7) Subsection (6) does not disentitle a judge to vote in any election.

### **Salary**

12. Subject to this Act, a judge shall be paid the prescribed salary.

### **Fringe benefits**

13.(1) A judge other than a deputy judge is entitled to the prescribed amount of annual vacation leave, and may receive such other leave as may be prescribed.

(2) The Commissioner in Executive Council may by regulation establish or provide other benefits for judges other than deputy judges, including severance pay, death benefits, and pension, disability or insurance plans.

### **Review of salary and benefits**

14. The salaries and benefits prescribed for judges shall be reviewed annually by the Executive Council Member in consultation with the chief judge.

### **Travel expenses**

15. A judge is entitled to receive, for his travel and living expenses incurred while away from his ordinary place of residence in connection with the performance of his judicial duties, compensation at the maximum rate in use from time to time for the payment of such expenses for members of the public service of the Yukon.

## **JUDICIAL COUNCIL**

### **Functions of the council**

16.(1) There shall be a judicial council of the court to be called the Judicial Council of the Territorial Court.

(2) The functions of the judicial council are

- (a) to make recommendations to the Executive Council Member respecting appointments of judges and justices,
- (b) subject to this Act, to deal with formal complaints respecting judges and justices,
- (c) to make recommendations to the Executive Council Member and the chief judge on such matters as it considers necessary respecting the efficiency, uniformity or quality of judicial services provided by the Territorial Court or the Justice of the Peace Court,

- (d) to report to the Executive Council Member respecting proposals for improving the judicial services of the court or on such other matters as may be referred to it by the Executive Council Member, and
- (e) to perform such other duties as it may be requested to perform by the Executive Council Member.

### **Composition of the council**

#### **17.(1) The council shall be composed of**

- (a) the senior judge of the Supreme Court, or another judge of that court nominated by the senior judge,
- (b) the chief judge of the Territorial Court, or another judge of that court nominated by the chief judge,
- (c) the president of the Justice of the Peace Association, or another justice nominated by him,
- (d) the president of the Law Society of Yukon, or another member of the society nominated by him, and
- (e) a lawyer and not more than two other persons appointed by the Commissioner in Executive Council for a term of not more than three years.

(2) Nominations under paragraphs (1)(a) to (d) shall be in writing signed by the nominator and are effective from the time they are delivered to the Executive Council Member.

(3) Nominations under paragraphs (1)(a) to (d) may be revoked by delivery to the Executive Council Member of an appropriate written statement, signed by the person entitled to make the nomination.

(4) The senior judge of the Supreme Court, or his nominee under paragraph (1)(a), shall be the chairperson of the judicial council.

(5) Where, for any reason, the chairperson of the judicial council is unable to act, the other members shall choose a member to act as chairperson in his absence.

### **Quorum and procedure**

#### **18.(1) A majority of the members of the judicial council is a quorum.**

(2) Where in a proceeding before the council there is no majority decision, the chairperson shall cast a second and deciding vote.

(3) The judicial council may make rules of procedure governing the calling of its meetings and the conduct of business at its meetings.

### **Remuneration**

**19.** Members of the judicial council appointed under paragraphs 17(1)(c), (d) or (e) may be paid such remuneration as may be prescribed.

**COMPLAINTS AND DISCIPLINE****Role of the chief judge**

20. The chief judge shall receive and attempt to resolve complaints concerning the conduct of judges and justices, but where he is unable to resolve a complaint he shall advise the complainant of the procedure to make a formal complaint under section 21.

**Formal complaint**

21.(1) Any person may make a formal complaint to the senior judge of the Supreme Court respecting

- (a) the conduct of a judge or justice,
- (b) the neglect of duty by a judge or justice, or
- (c) the ability or capacity of a judge or justice to perform his duties.

(2) A formal complaint shall be made in such manner and in such form as the judicial council may require.

(3) A person who has made a formal complaint under subsection (1) may withdraw the complaint with the consent of the judicial council.

**Reference to the judicial council**

22.(1) Where a formal complaint is received by the senior judge of the Supreme Court, he shall place it before the judicial council, which may

- (a) dismiss the complaint, where the complaint is not made in good faith, or where the complaint concerns a trivial matter, or
- (b) refer the complaint to the chief judge or such other person as the judicial council deems fit for an investigation and report.

(2) A judge or justice against whom a formal complaint has been made shall not participate as a member of the judicial council for the purposes of considering the complaint under subsection (1).

**Suspension of judge pending investigation**

23. The senior judge of the Supreme Court may suspend a judge or justice from the performance of his duties where a formal complaint against the judge or justice is to be or is being investigated under paragraph 22(1)(b).

**Dismissal of complaint**

24. The judicial council may dismiss a formal complaint after receiving a report prepared under paragraph 22(1)(b) where the council is of the opinion that

- (a) the complaint has not been made in good faith, or it concerns only a trivial matter,
- (b) the complaint is unfounded, or
- (c) the complaint has been resolved in a manner satisfactory to the judicial council.

**Order of inquiry**

**25.**(1) The judicial council shall order that an inquiry be held respecting a formal complaint where the council has received a report prepared under paragraph 22(1)(b) and has not dismissed the complaint under section 24.

(2) The Executive Council Member may, for any reason he considers sufficient, order that an inquiry be held respecting

- (a) the conduct of a judge or justice,
- (b) the neglect of duty by a judge or justice, or
- (c) the ability or capacity of a judge or justice to perform his duties.

(3) An order under subsection (2) shall state particulars of the matter to be inquired into.

**Notice of council decision**

**26.**(1) The judicial council shall advise the complainant, and the judge or justice against whom the formal complaint was made, of its decisions or recommendations under section 22, 24 or 25 as soon as practicable after the making of a decision.

(2) Where an investigation has been commenced under section 22 or an inquiry has been ordered under section 25, and the judge or justice resigns, the investigation or inquiry shall be completed unless the Executive Council Member orders otherwise.

**Inquiry**

**27.**(1) Where an inquiry is ordered to be held under section 25,

- (a) the judge or justice is suspended from all of his duties with salary unless the senior judge of the Supreme Court orders that the suspension be without salary, and
- (b) written notice shall be given to the judge or justice, together with any report that may have been made respecting the matter under section 22.

(2) Within 14 days after receiving a notice under paragraph (1)(b), the judge or justice shall elect as a tribunal to conduct the inquiry either the judicial council or a judge of the Supreme Court to be designated by the senior judge of the Supreme Court, and in the absence of such an election, the judicial council shall conduct the inquiry.

**Participation in inquiry**

**28.** Where a person has conducted an investigation into a matter under section 22, he shall not participate in the conduct of an inquiry into the matter either alone or as a member of the judicial council.

**Terms of reference for inquiry**

**29.** In conducting an inquiry, the tribunal may consider all matters relating to a judge or justice that are relevant to his fitness to perform his duties, including

- (a) mental or physical disability,
- (b) misconduct,
- (c) failure in the execution of his office, or
- (d) conduct incompatible with the due execution of his office.

**Inquiry procedure**

30.(1) An inquiry shall be held in public unless the judicial council determines, in the public interest, that all or part of the inquiry should be held in private, in which case it shall state its reason or reasons for such a determination.

(2) The tribunal holding an inquiry may prohibit the publication of information or documents placed before it in relation to an inquiry or investigation under this Act where it is of the opinion that the publication is not in the public interest.

- (3) Where an inquiry is to be held, the tribunal shall give the judge or justice
- (a) reasonable notice of the time and place at which the inquiry is to be held,
  - (b) reasonable particulars of the matter being inquired into, and
  - (c) the opportunity, by himself or his counsel, to be heard, to cross-examine witnesses, and to adduce evidence.

(4) Subject to this Act, the tribunal holding an inquiry may determine its own procedures and conduct the inquiry in such manner as it considers appropriate.

**Participation of the Executive Council Member**

31. Where the Executive Council Member orders that an inquiry be held, he is entitled to appoint legal counsel to act on his behalf to appear, cross-examine witnesses and present evidence at the inquiry.

**Appointment of legal counsel**

32. The judicial council may appoint legal counsel to appear, cross-examine witnesses and present evidence at an inquiry.

**Protection and privileges of inquiry**

33. A member of a tribunal conducting an inquiry under this Act has the same protection and privileges, in case of an action brought against him for an act done or omitted to be done in the execution of his duty, as are by law given to judges of the Supreme Court.

**Power of subpoena**

- 34.(1) The tribunal, by summons and on reasonable notice, may require any person
- (a) to attend as a witness at a time and place mentioned in the summons, or
  - (b) to bring and produce before the tribunal writings, records or things in his possession, custody or power that relate in any way to the subject matter of the inquiry.

(2) A person named in and served with a summons shall attend before the tribunal and answer on oath, unless the tribunal directs otherwise, all questions that relate to the subject matter of the inquiry, and produce writings, records or things according to the tenor of the summons.

(3) For the purpose of compelling the attendance of witnesses before an inquiry, examining them there under oath, and compelling the production of writings, records or things before the inquiry, a judge of the Supreme Court, as a member of the tribunal or otherwise on application by the tribunal, may exercise his powers as a judge of the Supreme Court as if the inquiry were a proceeding in the Supreme Court.

**Examination of records of judge or justice**

35. For the purposes of an inquiry, the tribunal or a person authorized by the tribunal may examine and extract relevant information from any writings or records in the possession of the judge or justice in respect of whom the inquiry is being held, and may make such copies of those writings or records as the tribunal considers necessary.

**Orders on conclusion of inquiry**

36.(1) On the conclusion of an inquiry, the tribunal may

- (a) order the reinstatement of the judge or justice with or without a reprimand,
- (b) order the suspension of the judge or justice, with or without remuneration, for a further period of not more than six months, or
- (c) order the further suspension of the judge or justice and recommend the removal of the judge or justice from office by the Commissioner in Executive Council.

(2) Where a judge or justice is reinstated and did not receive all or part of his salary during his suspension, the tribunal may order the payment to him of all or part of the salary to which he otherwise would have been entitled.

(3) The Commissioner in Executive Council may remove a judge or justice from office and revoke his appointment where he has received a recommendation to do so from the judicial council under paragraph (1)(c) and

- (a) an appeal by the judge or justice under section 38 from the decision of the council is dismissed, or
- (b) the time for appealing under section 38 has expired.

**Notice of decision after inquiry**

37. The tribunal shall promptly notify the judge or justice in respect of whom the inquiry was held, and the Executive Council Member, of its order or recommendation and the reasons for the order or recommendation, and it shall file a copy of the order or recommendation and reasons with the clerk of the Supreme Court for immediate publication.

**Appeal**

38.(1) A judge or justice in respect of whom an order or recommendation has been made under subsection 36(1) may appeal to the Court of Appeal within 30 days after notice of the order was mailed or given to him personally or within 30 days after the order or recommendation was filed under section 37.

(2) The decision of the Court of Appeal on an appeal under subsection (1) is final.

**JUSTICES OF THE PEACE****Justice of the Peace Court**

39. There shall be in and for the Yukon a court called the Justice of the Peace Court of Yukon.

**Appointment of justices**

40.(1) The Commissioner in Executive Council, on the recommendation of the judicial council, may appoint such justices as he considers necessary, subject to such conditions as to residence or occupation as may be recommended by the judicial council.

(2) A justice appointed under subsection (1) shall, before entering on the duties of his office, swear or affirm an oath as follows: "I, ....., do solemnly swear that I will duly, faithfully and to the best of my skill and knowledge execute the powers and trusts reposed in me as a justice of the peace for so long as I shall continue to hold office, without fear or favour, and that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors."

(3) Justices of the Court of Appeal, judges of the Supreme Court, and judges of the Territorial Court are justices of the peace, but subsection (2) and sections 41 to 44 do not apply to them.

**Term of office**

41.(1) Subject to this Act, a justice ceases to hold office

- (a) on attaining the age of 65 years, or
- (b) when he resigns.

(2) Where the judicial council determines that a justice has changed his residence or occupation contrary to a condition imposed under subsection 40(1), the council may recommend to the Executive Council Member that the appointment of the justice be revoked.

(3) Where the Executive Council Member has received a recommendation under subsection (2), the Commissioner in Executive Council may revoke the appointment of the justice.

**Remuneration and fringe benefits**

42.(1) Subject to this Act, a justice shall be paid such remuneration as may be prescribed by the Executive Council Member after consultation with the chief judge.

(2) The Executive Council Member may, after consultation with the chief judge, prescribe the vacation leave, sick leave, pension or other benefits, if any, that a justice may receive.

**Travel expenses**

43. A justice is entitled to receive, for his travel and living expenses incurred while away from his ordinary place of residence in connection with the performance of his duties as a justice, compensation at the rate in use from time to time for the payment of such expenses for members of the public service of the Yukon.

**Youth court**

44. For the purposes of the Young Offenders Act (Canada), the Justice of the Peace Court shall be deemed to have been designated as a youth court.

**MISCELLANEOUS**

**Judge to preside**

45. Every sitting of the court shall be presided over by a judge, and only a person acting pursuant to his powers as a judge shall try any action, give any judgment or make any decision, determination, order or decree in the court.

**Seal**

46. The court shall have a seal in the prescribed form.

**Chief judge**

47.(1) The Commissioner in Executive Council shall designate a judge to be chief judge of the court to hold office for a term of not more than five years during good behaviour.

(2) A judge is not eligible to be chief judge for two consecutive terms.

**Associate chief judge**

48. The Commissioner in Executive Council may designate a judge as associate chief judge for the purpose of performing the duties and exercising the powers of the chief judge during the absence of the chief judge from the Yukon or during the absence of the chief judge from the performance of his duties due to illness, the taking of leave or for any other reason.

**Duties and powers of the chief judge**

49.(1) Subject to this Act, the chief judge has the duty and power to supervise judges and justices in the performance of their duties, and may

- (a) designate the matters or classes of matters in which a judge or justice shall act,
- (b) designate the court facility where a judge or justice shall act,
- (c) assign duties to judges and justices,
- (d) make recommendations to the Executive Council Member respecting all matters affecting the administration of the Territorial Court or the Justice of the Peace Court, and
- (e) approve the taking of vacation leave and other leave from judicial duties with or without pay to which a judge may be entitled under this Act.

(2) The chief judge shall perform such administrative duties as the Executive Council Member may prescribe.

**Conflict of interest**

50.(1) A judge or justice does not have jurisdiction to hear any matter in which he has or has had an interest.

(2) A deputy judge or justice does not have jurisdiction to hear any matter in respect of which he or any associate of his in a firm of lawyers has represented or is representing any of the parties or any other person involved.



**Continuation of proceedings**

51.(1) A judge who retires or resigns remains seized of any matter in respect of which he has heard evidence or argument for a period of 12 weeks after his retirement or resignation and may, within those 12 weeks, continue to hear any further evidence or argument necessary to complete the proceedings in the matter and to give judgment as if he had not retired or resigned.

(2) If a proceeding other than a trial or application under the Criminal Code (Canada) has been commenced and the presiding judge or justice is unable for any reason to complete the proceedings, any judge or justice, as the case may be, requested to act by the chief judge may continue the proceedings from where they were left off and, according to his opinion as to what is required to ensure justice, may continue the proceedings to completion or recommence the proceedings from any point.

**Change of venue**

52. A judge may in his discretion order that the venue of any matter be changed and that the matter be heard in such place in the Yukon as he shall direct.

**Manner of proceeding in Territorial Court**

53.(1) Subject to this Act, the rules of practice and procedure followed in the Supreme Court shall, mutatis mutandis, be followed in all actions and proceedings in the Territorial Court.

(2) All proceedings in the Territorial Court shall be entitled "In the Territorial Court of Yukon."

**Rules Committee**

54.(1) The Executive Council Member may establish a rules committee of the court to be composed of the chief judge, two lawyers and not more than three other persons appointed by the Executive Council Member for such terms as the Commissioner in Executive Council considers appropriate.

(2) The Commissioner in Executive Council shall designate one of the persons appointed to the rules committee to be chairperson.

**Power to make rules**

55. Subject to the approval of the Commissioner in Executive Council, and notwithstanding subsection 53(1), the rules committee may make rules respecting the practice and procedures of the court, including the establishment of tariffs of fees and costs for lawyers in respect of proceedings in the court.

**Responsibilities of the Executive Council Member**

56. The Executive Council Member is responsible for the provision, operation and maintenance of court facilities and services.

**Court staff**

57. Pursuant to the Public Service Commission Act, there may be appointed a clerk of the court and such other employees as may be considered necessary for the dispatch of the business of the court.

**Court circuits**

**58.** The chief judge shall, after consulting with the Executive Council Member, having regard to the volume of judicial work in any area of the Yukon, direct that sittings of the court be held at such places as the chief judge and Executive Council Member consider advisable.

**Regulations of the Commissioner in Executive Council**

**59.** After consultation with the chief judge the Commissioner in Executive Council may, in respect of proceedings in the court, make regulations prescribing

- (a) the rates of fees and expenses payable to witnesses and interpreters;
- (b) the fees to be paid for the filing or issuing of documents, or for services rendered by clerks or sheriffs;
- (c) the fees, expenses and other forms of remuneration to be paid to stenographic reporters, or to operators or transcribers of sound recording machines;
- (d) the form of the seal to be used by the court.

**Regulations of the Executive Council Member**

**60.** The Executive Council Member may, after consulting with the chief judge, make regulations

- (a) prescribing the administrative duties of the chief judge;
- (b) prescribing the locations for court facilities, or the facilities that may be used by the court;
- (c) requiring and governing the making of returns and reports by judges and clerks;
- (d) prescribing the records that shall be maintained by the court;
- (e) prescribing the duties of clerks and other employees;
- (f) providing for the safekeeping, inspection and destruction of books, documents, papers and records of the court and judges;
- (g) establishing a system of statistical records relating to the court;
- (h) governing the remission of money paid to or collected by the court, a judge or a justice;
- (i) providing for the appointment and employment of stenographic reporters to take down evidence in respect of proceedings in the court;
- (j) providing for the appointment of operators and transcribers of sound-recording machines when used to record evidence in respect of proceedings in the court;
- (k) defining the class of matters in which stenographic reporters may be used;
- (l) prescribing the forms to be used in the court or issued by the court;
- (m) respecting any other matter he considers necessary or advisable in relation to the provision, maintenance or operation of the facilities or services of the court.

**Power to preserve order in court**

**61.** Every judge has the same power and authority to preserve order in a court over which he is presiding as may be exercised by a judge of the Supreme Court.

**Want of form**

**62.** No order, verdict or judgment or other proceeding made by the court shall be quashed or vacated for want of form.

**Liability of judge or justice**

**63.**(1) A judge or justice is not liable for damage caused by anything done or not done by him in the performance of his duty or in respect of a matter in which he lacked or exceeded his jurisdiction unless it is proved that he acted in bad faith or with gross negligence.

(2) Where a judge or justice has ceased for any reason to be a judge or justice, and an order, warrant or sentence that could have been lawfully made or imposed by him is subsequently made or imposed by another judge or justice, no action for the recovery of damages lies in respect of that order or warrant made or sentence imposed.

(3) No action for the recovery of damages lies against any person in respect of an act or thing done in the execution of any order, warrant or sentence to which subsection (1) relates, or purporting to be done in compliance with or incidental to any such order, warrant or sentence.

**Regulations respecting salaries and benefits**

**64.** The Commissioner in Executive Council may make regulations

- (a) fixing the salaries to be paid to the chief judge and to judges other than deputy judges;
- (b) fixing the amount to be paid to deputy judges;
- (c) providing for the benefits to which judges other than deputy judges are entitled, including
  - (i) leaves of absence and vacations,
  - (ii) sick leave credits and payments in respect of such credits,
  - (iii) pension benefits for judges and their surviving spouses or children,
  - (iv) termination pay,
  - (v) death benefits, or
  - (vi) insurance coverage;
- (d) establishing the holidays that judges are entitled to observe;
- (e) providing for the payment of additional remuneration to the associate chief judge for the performance of duties of the chief judge.

**Regulations respecting inquiries and the judicial council**

**65.**(1) The Commissioner in Executive Council may make regulations either generally in regard to all inquiries or specifically in regard to any inquiry, for

- (a) remuneration of witnesses;
- (b) allowances to witnesses for travel and living expenses;
- (c) other expenses of an inquiry;
- (d) generally, all things necessary to provide adequately for the holding of an inquiry.

(2) The Commissioner in Executive Council may make regulations providing for the payment of travel and living expenses for members of the judicial council.

**General regulation making power**

**66.** The Commissioner in Executive Council may, in addition to any other regulations that may be made under this Act, make such regulations as he considers necessary to carry into effect the purposes and provisions of this Act.

**Regulations respecting the Justice of the Peace Court**

67. Subject to this Act, the Executive Council Member may, in respect of the Justice of the Peace Court, make any regulation that may be made under this Act in respect of the Territorial Court, including regulations

- (a) fixing the amount to be paid to justices, which may vary according to the qualifications of a justice or the duties he may be required to perform, and
- (b) establishing the benefits that may be provided to a justice, if any, in addition to his remuneration under paragraph (a).

**References in federal Acts**

68. A reference to the expression “Magistrate’s Court”, or to the word “magistrate”, in any Act of the Parliament of Canada, or in any order, rule or regulation made thereunder, shall be deemed to be a reference to the Territorial Court, and every judge of the Territorial Court shall be deemed to be a magistrate.

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# CHAPTER 170

## TOBACCO TAX ACT

### Interpretation

1. In this Act,

- “consumer” means a person who purchases or acquires tobacco for his own use or consumption or for the use or consumption by others at his expense;
- “dealer” means a person who, in the Yukon, sells or offers to sell tobacco or keeps tobacco for sale, either at wholesale or at retail;
- “package” includes a box, tin, or other container in which tobacco is sold at retail;
- “retail dealer” means a person who sells or offers for sale, in the Yukon, tobacco to a consumer;
- “retail sale” means a sale of tobacco to a consumer;
- “tobacco” means tobacco and tobacco products in any form in which they may be consumed, by the consumer, and includes snuff;
- “wholesale dealer” means a person who sells or offers for sale, in the Yukon, tobacco for the purpose of resale.

### Tax on consumer

2. Every consumer of tobacco in the Yukon shall pay to the Executive Council Member a tax in respect of that tobacco as provided in this Act.

### Collection and remission

- 3.(1) Every dealer shall collect and remit pursuant to this Act tax at the rate of
- (a) 3.2 cents on every cigarette purchased by the dealer,
  - (b) two cents on every cigar purchased by the dealer for a price at retail of not more than five cents,
  - (c) four cents on every cigar purchased by the dealer for a price at retail of more than five cents and not more than ten cents,
  - (d) six cents on every cigar purchased by the dealer for a price at retail of more than ten cents and not more than 15 cents,
  - (e) eight cents on every cigar purchased by the dealer for a price at retail of more than 15 cents and not more than 20 cents,
  - (f) 12 cents on every cigar purchased by the dealer for a price at retail of more than 20 cents and not more than 30 cents,
  - (g) 16 cents on every cigar purchased by the dealer for a price at retail of more than 30 cents and not more than 40 cents,
  - (h) 20 cents on every cigar purchased by the dealer for a price at retail of more than 40 cents and not more than 50 cents,
  - (i) 25 cents on every cigar purchased by the dealer for a price at retail of more than 50 cents and not more than 60 cents,
  - (j) 30 cents on every cigar purchased by the dealer for a price at retail of more than 60 cents, and

- (k) 28.5 cents per 25 grams or part thereof of any tobacco purchased by the dealer other than cigarettes or cigars.

(2) The tax payable on tobacco, other than cigars, shall be computed separately on every package.

(3) The tax payable on cigars shall be computed separately on the price at retail of each cigar whether or not it is sold in a package.

(4) The tax payable under subsection (1) shall be computed to the nearest cent, and, for this purpose, one-half cent shall be counted as one cent, and the minimum tax payable shall be one cent.

(5) Every dealer shall be deemed to be an agent for the Government of the Yukon.

(6) A person acting as agent under subsection (5) is not thereby made ineligible to be nominated, elected, or to sit as a member of the Legislative Assembly.

(7) Every person resident or carrying on business in the Yukon who brings or sends into the Yukon or who acquires or receives delivery in the Yukon of tobacco

- (a) for his own consumption or use, or for the consumption or use by other persons at his expense, or
- (b) on behalf of, or as the agent for a principal who desires to acquire the tobacco for the consumption or use by the principal or other persons at the expense of the principal,

shall immediately report the matter in writing to the Executive Council Member together with all pertinent information required by the Executive Council Member in respect of the consumption or use of such tobacco, and furthermore, at the same time, shall pay to the Executive Council Member the same amount of tax as would have been payable if the tobacco had been purchased in the Yukon.

(8) Notwithstanding subsection (7), every person resident in the Yukon or carrying on business in the Yukon, may have in his possession at any one time, for his own consumption an amount of tobacco not exceeding 200 cigarettes, 50 cigars, and one kilogram of tobacco which he has personally acquired or received from outside the Yukon and on which he has not reported to the Executive Council Member and on which he has not paid the tax otherwise required to be paid in accordance with this Act.

#### **Absorption of tax prohibited**

4. No dealer shall advertise or hold out or state to the public or to a consumer, directly or indirectly, that the tax or any part thereof imposed by this Act will be assumed or absorbed by him, or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded.

#### **Permits**

5.(1) No person shall sell or offer for sale tobacco in the Yukon unless he has been granted, upon his application in the prescribed form, a permit, and such permit is in force at the time of sale.

(2) No person shall sell or offer for sale, in the Yukon, tobacco to a consumer unless he holds a retail dealer's permit.

(3) No person shall sell or offer for sale tobacco for resale in the Yukon to any person who does not hold a wholesale dealer's permit.

(4) The permit granted under subsection (1) shall be kept at the principal place of business of the dealer in the Yukon and shall not be transferable, and shall upon request, be presented for inspection by the Executive Council Member, or by a person designated by him.

(5) Subject to the approval of the Commissioner in Executive Council, the Executive Council Member may

- (a) cancel or suspend a permit where a person commits an offence against this Act, or has failed to post the security required under section 13 of this Act, and
- (b) refuse to issue a permit to a person who has committed an offence against this Act, or has failed to post the security required under this Act.

### **Sales in bulk prohibited**

6.(1) No dealer shall dispose of his stock of tobacco through a sale in bulk as defined in the Bulk Sales Act without first obtaining a certificate in duplicate from the Executive Council Member that the tax collectable or payable under this Act has been paid by the dealer.

(2) Every person purchasing a stock of tobacco through a sale in bulk as defined in the Bulk Sales Act shall obtain from the dealer selling the stock of tobacco a duplicate copy of the certificate furnished under subsection (1), and, if he fails to do so, he is responsible for payment to the Executive Council Member of the tax collectable or payable under this Act by the dealer thus disposing of his stock of tobacco through a sale in bulk.

### **Secrecy of information**

7.(1) Subject to subsection (2), no person employed in the administration of this Act shall communicate or allow to be communicated to a person not legally entitled thereto information obtained under this Act, or allow such person to inspect or have access to any written statement furnished under this Act.

(2) The Executive Council Member may

- (a) communicate or allow to be communicated information obtained under this Act, or
- (b) allow inspection of, or access to, any written statement furnished under this Act to a person employed by the Government of Canada or the government of any province in connection with the administration or enforcement of a federal or provincial law.

### **Books and records**

8. Every dealer shall

- (a) maintain books and records in respect of his tobacco transactions in sufficient detail to permit examination and calculation of the tax, and

- (b) preserve such books and records for such period of time as may be prescribed.

### **Inspection**

9.(1) Any person so authorized by the Commissioner in Executive Council may enter at any reasonable time the business premises occupied by any person, or the premises where his records are kept,

- (a) to determine whether or not the person is a dealer within the meaning of this Act,
- (b) to determine whether or not this Act and the regulations are being and have been complied with,
- (c) to inspect, audit, and examine books of account, records, or documents,
- (d) to ascertain the quantities of tobacco purchased, on hand, used, or sold by him,

and the person apparently in charge of or occupying the premises shall answer all questions pertaining to these matters and shall produce such books of account, records or documents as may be required.

(2) Where it appears from the inspection, audit or examination of books of account, records or documents that this Act or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate or estimate the tax due, if any, and the Executive Council Member shall assess the person for the amount of the tax so calculated, but the person so assessed may request a review of the amount of the assessment under section 10.

(3) Proof that an assessment under subsection (2) has been made is prima facie evidence that the amount stated therein is due and owing, and the onus of proving otherwise rests on the person so assessed.

### **Right of review**

10.(1) If a person disputes an assessment made under subsection 9(2), he may, within 60 days after receipt of the notice of assessment, request a review of assessment.

(2) The request shall be in writing and shall be addressed to the Executive Council Member.

(3) The request shall set out clearly the reasons for the review and all facts relative thereto.

(4) Upon receipt of the request, the Executive Council Member shall duly consider the matter and affirm or amend the estimate or assessment and forthwith notify the person making the request in writing of his decision.

### **Liability of tax collector**

11. Every person who collects any tax under this Act shall be deemed to hold such tax in trust for the Executive Council Member and shall make payment in the manner and at the time provided by the regulations; and the amount until paid, is a lien upon the property in the Yukon of the person in default, or his estate in the hands of any trustee.



**Penalty and interest**

12.(1) The Executive Council Member may, in addition to any other penalty or action, assess a penalty equal to ten percent of the amount due, and may assess interest on the amount due at ten percent per annum against any person who fails to pay any tax which he is required to pay under this Act or fails to file returns on due dates as required by the regulations.

(2) The penalty and interest under this section form part of the lien provided for in section 11.

**Bond deposit**

13.(1) Where a dealer has failed to collect or to remit tax in accordance with this Act, the Executive Council Member may require him to deposit a bond by way of cash or other security satisfactory to the Executive Council Member.

(2) The amount of the bond shall be determined by the Executive Council Member, but shall not be greater than an amount equal to six times the tax, or the estimated tax, that would normally be collected by the dealer each month under this Act.

(3) Where a dealer who has deposited a bond under subsection (1) fails to collect or to remit tax in accordance with this Act, the Executive Council Member may, after giving written notice to the dealer either by registered mail or by personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the dealer as the amount due in taxes under this Act.

**Liability of corporation officers**

14. If a corporation commits an offence against this Act, and if an officer, director, employee or agent of the corporation directed, authorized, assented to, acquiesced or knowingly participated in the commission of the offence, that person is a party to and guilty of the offence, but this does not affect the liability of the corporation for the penalties provided for such an offence.

**Offences**

15.(1) Every person who

- (a) makes a false statement in any return, report, certificate or form used under this Act,
- (b) obtains or attempts to obtain or knowingly induces, assists or attempts to assist another person to obtain a reduction of tax,
- (c) knowingly gives false information respecting any tobacco transaction,
- (d) refuses or neglects to pay or remit tax or to execute and submit prescribed returns, certificates, reports or forms required by this Act,
- (e) refuses to produce records or documents respecting tobacco transactions, or
- (f) violates any other provisions of this Act,

commits an offence against this Act and is liable, upon summary conviction, to a fine not exceeding \$1,000 or to imprisonment, and each day's continuance of the act or default out of which the offence arises shall constitute a separate offence; but nothing contained in this section or the enforcement of any penalty thereunder shall suspend or affect any remedy for the recovery of any tax.

(2) In addition to the fine or imprisonment imposed under subsection (1), the offender shall be ordered by the court to pay the amount of the tax that is owing, on or before such date as shall be fixed by the court.

(3) In any prosecution under subsection (1), a certificate purporting to be signed by the Executive Council Member stating the amount of tax that should have been collected shall be prima facie evidence of the amount of the tax that should have been collected.

(4) Any information or complaint in respect of an offence under this Act may be for one or more than one offence and no information, complaint, warrant, conviction, or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

**Onus of proof**

16. In any prosecution for an offence under this Act or in any action or other proceeding brought for the recovery of tax, the burden of proving that he has paid or remitted tax is on the accused or the defendant.

**Limitation**

17. No prosecution for an offence under this Act shall be commenced after two years from the date of the commission of the offence, except that in the case of fraud no limitation applies.

**Prosecution evidence**

18.(1) In any proceedings against a dealer pursuant to this Act, his application form for a dealer's permit is prima facie evidence that the person is a dealer under this Act.

(2) Where the dealer is described as a partnership on the application form, the application form is prima facie evidence that the persons named thereon are partners.

**Regulations**

19. For the purpose of carrying into effect the provisions of this Act, the Commissioner in Executive Council may make regulations

- (a) prescribing forms and records to be used or kept for the purpose of this Act;
  - (b) prescribing the method of collection and remittance of the tax and any other conditions or requirements affecting such collection and remittance;
  - (c) defining any expression used in the Act or regulations and not herein defined;
  - (d) establishing a system of permits to be used by dealers;
  - (e) generally for the purpose of carrying out the provisions of this Act.
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# CHAPTER 171

## TRADE SCHOOLS REGULATION ACT

### **Interpretation**

1.(1) In this Act,

“registrar” means the person appointed to be the registrar pursuant to section 2;

“trade” means the skill and knowledge requisite for or intended for use in any business, trade, occupation, calling or vocation designated as a trade by the regulations;

“trade school” means any school or place wherein any trade is taught or purported to be taught, and any course of study organized, promoted or carried on, whereby a trade is taught or purported to be taught, but does not include a school, place, or course of study, whether by correspondence or otherwise, conducted or operated by a university approved by the Commissioner in Executive Council, by any department of the Government of Canada or the Yukon, under the School Act, or a school or course maintained under the provisions of any other Act of the Yukon, or a school, place or course exempted by the Commissioner in Executive Council.

(2) A person who keeps or is in charge or apparently in charge of a trade school shall be deemed to operate the trade school.

### **Appointment of officials**

2. The Commissioner in Executive Council may appoint a registrar, deputy registrar and such officers as he may consider necessary for the purpose of carrying out the provisions of this Act.

### **Requirement for registration of trade schools**

3. No person shall operate any trade school in the Yukon unless he is registered under this Act.

### **Application for registration**

4. After the coming into force of this Act, every person desirous of commencing the operation of a trade school in the Yukon shall make application for registration in writing to the registrar in such form and with such particulars as may be prescribed.

### **Expiration and renewal of registration**

5. Every registration under this Act shall expire on August 31 next following the date of registration, and every person who is registered may make application to the registrar for the renewal of his registration in the manner provided in section 4.

### **Registration**

6. Upon the applicant for registration or for renewal of registration, as the case may be, complying with the requirements of the registrar and satisfying him that the trade school is provided with competent instructors and sufficient equipment for the teaching of any specified trade or trades, and has furnished or is prepared to furnish proper instruction in such trade or trades, the registrar may register the applicant as operator of a trade school for the teaching of the specified trade or trades, and may issue a certificate of registration accordingly.

**Inspection**

7. The registrar, or any person authorized by him in writing, may inspect any trade school at any time, to observe the method of instruction given therein, and to inspect the business books and records, and all circulars, pamphlets, and other material used for advertising the trade school and the instruction afforded therein, and any person who obstructs the registrar or the authorized person in making any inspection or observation, or who refuses or neglects to produce any business book or record upon demand, commits an offence.

**Cancellation and reinstatement of certificate**

8.(1) If, as the result of any inspection of any trade school, or upon being otherwise credibly informed, the registrar is satisfied that a trade school in respect of which registration has been made under this Act is insufficiently provided with the means of instruction, or that any regulation under the provisions of this Act is not observed therein, he may cancel the registration and the certificate thereof.

(2) Where the registrar is satisfied that the insufficiency or breach has been rectified, he may in his absolute discretion reinstate the registration and the certificate.

**Penalty**

9. Every person who

- (a) operates a trade school at a time when he is not registered under this Act as the operator of that trade school,
- (b) operates a trade school for the purpose of giving instruction in a trade not specified in his certificate of registration.
- (c) enters into any contract for the furnishing of instruction in a trade other than the contract set out in the application for registration, or a contract which has been approved by the registrar. or
- (d) fails to comply with any provision of this Act or the regulations,

is, in addition to any other liability, liable, upon summary conviction, to a fine of not more than \$500, or to imprisonment for a term of not more than six months, or to both fine and imprisonment.

**Regulations**

10. The Commissioner in Executive Council may make regulations

- (a) prescribing the security to be provided by the operator of any trade school operated in the Yukon for the due performance of his contracts with students or their parents or guardians;
- (b) prescribing the minimum number of hours of instruction in any trade which shall constitute a course of instruction in that trade;
- (c) prescribing the terms and conditions upon which enrolment and tuition fees may be collected and money paid for or on account of instruction in any trade school shall be either retained by the payee or be repayable to the payer;
- (d) prohibiting the use within the Yukon of any advertising relating to any trade school which may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the operator of any trade school;
- (e) designating any calling or vocation as a trade within the meaning of this Act;

- (f) fixing the fees that shall be payable on application for registration or renewal of registration under this Act;
- (g) providing, in the case of any specified trade school, that no certificate or other document as to the competency of any person shall be issued by that trade school unless that person has submitted himself to such examination and by such persons as may be prescribed by the regulations, and prescribing fees for such examination and certificate;
- (h) generally, as to the conduct, operation, and management of trade schools or any of them, and the nature of any examinations for certificates of competency, the manner, times, and places of holding such examinations, and the persons who shall sit as examiners;
- (i) prescribing the accommodation, equipment, tools, implements, instruments, books and materials necessary for any trade school, and the means of instruction to be used and the number and qualification of teachers to be engaged;
- (j) regulating the selling, advertising and offering for sale of any course of instruction offered by a trade school, and prohibiting any selling, advertising or offering for sale not in conformity with the regulations, prescribing the form of contract to be used and the terms, conditions and method upon which representatives, agents and salespersons may be employed;
- (k) generally for the purpose of carrying out the provisions of this Act.

#### **Application of the Act and regulations**

**11.(1)** The provisions and requirements of this Act and the regulations are in addition to all provisions and requirements made by or under any other Act, and no examination held or certificate or other document granted by virtue of this Act or the regulations shall in any way be deemed to be a compliance with the provisions or requirements made by or under any other Act respecting examinations to be held or certificates or documents to be granted thereunder.

(2) Subject to subsection (1), in case of any conflict arising between the provisions of this Act and the regulations and the provisions of any other Act, the provisions of this Act and the regulations shall prevail.

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# CHAPTER 172

## TRAVEL FOR MEDICAL TREATMENT ACT

### Interpretation

1.(1) In this Act,

“administrator” means the administrator of the Yukon Health Care Insurance Plan;

“chief medical officer of health” means the person appointed by the Commissioner in Executive Council as the chief medical officer of health for the Yukon and includes his authorized deputy;

“escort” means a person accompanying the patient to safeguard his comfort and well-being;

“travel expenses” means the cost of transportation paid in respect of a resident pursuant to this Act and includes the cost of a medical evacuation authorized pursuant to section 7 and the cost of a travel allowance paid to an escort in respect of that resident pursuant to section 6.

(2) In this Act,

(a) “resident” means a person who is lawfully entitled to be in Canada and who makes his home and is ordinarily present in the Yukon but does not include a tourist, transient or visitor to the Yukon, and

(b) notwithstanding paragraph (a), a person, other than a newborn child, shall be deemed not to be a resident of the Yukon until he has completed three months of continuous residence from the date of entry into the Yukon for the purpose of establishing residence therein.

### Payment of travel expenses

2. The Executive Council Member may pay the cost of approved travel expenses pursuant to this Act.

### Submission for payment

3. Every application for payment pursuant to section 2 shall be submitted to the administrator on the prescribed form.

### Travel certified in advance

4.(1) Subject to subsections (2) and (3), an application for the payment of the travel expenses of a resident shall be granted where the medical practitioner attending the resident or such person as may be so authorized by the chief medical officer of health on behalf of such medical practitioner certifies in advance that a medical examination, test or procedure is medically required for the resident and is not available at the point of referral.

(2) Where the travel required is to a place outside the Yukon, the application shall not be granted unless the application has been approved by the chief medical officer of health.

(3) All applications for the payment of travel expenses to places outside the Yukon shall be medically audited by a committee appointed pursuant to section 5.

**Committee for medical audits**

5.(1) The Commissioner in Executive Council may appoint a committee of not less than three medical practitioners to perform medical audits of all applications for travel to obtain medical treatment outside the Yukon.

(2) The chief medical officer of health shall be a member of the committee and report from time to time to the Executive Council Member respecting the proceedings of the committee.

**Escort**

6.(1) Where an escort is considered necessary by the chief medical officer of health, a travel allowance to such escort may be paid at the rates in force from time to time in respect of public servants in travel status.

(2) An escort shall be deemed to be in travel status for the period required to transport the resident from the point of referral or evacuation to the place where treatment is available and return by the first available transportation.

**Immediate evacuation**

7. Notwithstanding section 4, in cases of emergency, the chief medical officer of health may authorize the immediate medical evacuation of a person from the place where the person is to the place where the required medical treatment is available.

**Amount of travel expenses to be paid**

8.(1) Travel expenses within the Yukon from the point of referral to the place where the required medical treatment is available and return shall be paid in accordance with the following rules:

- (a) where bus transport is available, the amount to be paid shall be equal to the cost of the return bus fare;
- (b) where bus transport is not available but scheduled aircraft is available, the amount to be paid shall not exceed the amount of the scheduled air fare and return;
- (c) where neither bus nor scheduled aircraft are available, a private automobile may be authorized in which case an allowance shall be paid at a prescribed mileage rate;
- (d) an ambulance may be used instead of bus transport or scheduled aircraft or private automobile but only when specially authorized in accordance with the prescribed provisions governing the use of ambulances.

(2) Travel expenses from the Yukon to a place outside the Yukon and return shall be paid in accordance with the following rules:

- (a) the cost of transporting the resident from the point of referral to the nearest place where an airport is located from which a scheduled aircraft is available shall be in accordance with the rules established in subsection (1);
- (b) the cost of a scheduled air fare from an airport in the Yukon to the airport nearest the place where the treatment is available shall be paid but not exceeding the amount payable to Edmonton or Vancouver except with the special authorization of the chief medical officer of health;



- (c) where specially authorized by the chief medical officer of health,
  - (i) the cost of a bus fare may be authorized instead of the cost of a scheduled air fare,
  - (ii) a private automobile may be used instead of a scheduled aircraft but in such case the total amount to be paid in respect of the journey, including the costs of any escort where so authorized, shall not exceed the cost of one adult scheduled air fare, or
  - (iii) an ambulance may be used to transport a patient from an airport to a hospital and vice versa.

### **Exclusions**

9. Residents eligible and entitled to travel expenses otherwise than pursuant to this Act are excluded from the provisions of this Act.

### **Offence**

10.(1) Any person who violates any of the provisions of this Act or the regulations commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

(2) Any person who obtains the payment of any expenses pursuant to this Act for which he is not entitled, is liable to repay the amount thereof to the Government of the Yukon.

### **Secrecy**

11.(1) Every person employed in the administration of this Act shall preserve secrecy with respect to matters that come to his knowledge in the course of his employment which are medical in nature and shall not communicate any such matters to any other person except as provided in subsection (2).

(2) A person referred to in subsection (1) may furnish medical information but such information shall be furnished only

- (a) in connection with the administration of this Act and the regulations,
- (b) in proceedings under this Act and the regulations, or
- (c) pursuant to an order of a court.

### **Travel expenses resulting from wrongful act, etc.**

12. Where travel expenses of a person in respect of an injury resulting from the wrongful act or omission of another person have been paid pursuant to this Act, the Government of the Yukon shall be subrogated to all rights of the person for the purpose of recovering the expenses and may bring action either in its own name or in the name of such person.

### **Recovery of expenses**

13.(1) Notwithstanding section 12, where travel expenses have been paid in respect of a person who, as a result of a wrongful act or omission of another person suffers an injury, he may recover the amount thereof from the person guilty of the wrongful act or omission in the same manner as though he himself had been required to pay therefor.

(2) Every person described in subsection (1) who commences an action for the recovery of damages for personal injuries, shall include therein a claim on behalf of the Government of the Yukon for any travel expenses provided to such person.

(3) Where a person recovers an amount in respect of travel expenses received by him in an action for damages for personal injuries or by other means, he shall forthwith pay the amount so recovered to the Government of the Yukon.

**Action by government**

14. Where the Government of the Yukon has commenced action in the name of a person for whom the recovery of travel expenses provided to such person, that person may

- (a) at any time prior to the trial of the action, and
- (b) upon such conditions as to costs or otherwise as the court deems just, join in that action any other claim he may have arising out of the same occurrence.

**Action adjudicated**

15.(1) It shall not be a defence to an action brought by the Government of the Yukon for the recovery of travel expenses that an action has been adjudicated upon unless it included a claim for the amount paid for travel expenses.

(2) It shall not be a defence to an action to recover damages for personal injuries by a person who has received travel expenses that an action taken by the Government of the Yukon for the recovery thereof has been adjudicated upon.

**Approval of settlement**

16. No release or settlement of a claim or judgment in an action to recover damages for personal injuries where the person has received travel expenses shall bind the Government of the Yukon unless the Government of the Yukon or its authorized officer has approved the release or settlement in writing.

**Regulations**

17. The Commissioner in Executive Council may

- (a) make any regulations necessary to carry out the provisions of this Act, and
  - (b) prescribe forms.
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# CHAPTER 173

## TRUSTEE ACT

### Interpretation

1. In this Act, "trustee" includes an executor or administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee, and includes several joint trustees.

### INVESTMENTS

#### Authorized investments

2.(1) Unless a trustee is otherwise authorized or directed by an express provision of the law or of the will or other instrument creating the trust or defining his powers and duties, he may invest trust money in any kind of property, real, personal or mixed, but in so doing, he shall exercise the judgment and care that a person of prudence, discretion and intelligence would exercise as a trustee of the property of others.

(2) A trustee may, pending the investment of any trust money, deposit it during such time as is reasonable in the circumstances in any bank or trust company or in any other corporation empowered to accept money for deposit that has been approved for such purpose by the Commissioner in Executive Council.

#### Application of the above section

3. Section 2 applies to trustees acting under trusts arising before, on or after January 1, 1980.

#### Additional powers

4. The powers conferred by section 2 are in addition to the powers conferred by the instrument, if any, creating the trust; but nothing in this Act authorizes a trustee to do anything that he is in express terms forbidden to do or to omit anything that he is in express terms directed to do by the instrument creating the trust.

#### Trustee not chargeable on insufficient security

5.(1) No trustee lending money upon the security of property is chargeable with breach of trust, by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made where it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property whether such surveyor or valuer carried on business in the locality where the property is situated or elsewhere, that the amount of the loan does not exceed two-thirds of the value of the property as stated in the report, and, that the loan was made under the advice of the surveyor or valuer expressed in the report.

(2) This section applies to a loan upon property upon the security of which the trustee can lawfully lend and to transfers of existing securities, as well as to new securities and to investments made as well before as after the commencement of this Act.

#### **Trustees lending more than authorized amount**

6. Where a trustee has improperly advanced trust money on mortgage security that would at the time of the investment have been a proper investment in all respects for a less sum than was actually advanced thereon the security shall be deemed an authorized investment for such less sum and the trustee is only liable to make good the sum advanced in excess thereof with interest.

#### **Liability in case of change of character of investment**

7. No trustee is liable for breach of trust by reason only of his continuing to hold an investment that has ceased to be an investment authorized by the instrument of trust or by the general law.

### **RIGHTS AND LIABILITIES OF TRUSTEES**

#### **Indemnity and reimbursement of trustees**

8. Every deed, will or other document creating a trust either expressly or by implication shall without prejudice to the clauses actually contained therein be deemed to contain a clause in the words or to the following effect:

“That the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such money, stocks, funds and securities as they shall respectively actually receive notwithstanding their respectively signing any receipt for the sake of conformity and shall be answerable and accountable only for their own acts, receipts, neglects or defaults and not for those of each other nor for any banker, broker or other person with whom any trust money or securities may be deposited; nor for the insufficiency or deficiency of any stocks, funds or securities nor for any other loss unless the same shall happen through their own wilful neglect or default respectively; and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument to reimburse themselves or himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument.”

#### **Appointment of new trustees by judge**

9.(1) Whenever it is expedient to appoint one or more trustees, and it is inexpedient, difficult or impracticable so to do without the assistance of the court, a judge may make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee; and in particular, and without limiting the generality of the foregoing provision, the judge may make an order for the appointment of a new trustee in substitution for a trustee who is convicted of an indictable offence or is insolvent.

(2) No order under subsection (1) or a consequential vesting order or conveyance shall operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under a power for that purpose contained in an instrument would have operated.

(3) Nothing in this section gives power to appoint a personal representative.

**Appointment by surviving or continuing trustees**

**10.(1)** Where a trustee dies or desires to be discharged from the trust or refuses or becomes unfit to act or incapable of acting therein, the person nominated for that purpose by the deed, will or other instrument creating the trust, if any, or if there be no such person, or no such person able and willing to act, then the surviving or continuing trustees or the personal representative of the last surviving and continuing trustee, may appoint any other person or persons to be a trustee or trustees in place of the trustee or trustees dying, or desiring to be discharged, or refusing, or becoming unfit or incapable of acting.

(2) So often as any new trustee or trustees is or are appointed under subsection (1) all the trust property that for the time being is vested in the surviving or continuing trustees or trustee or in the heirs, executors or administrators of any trustee or trustees shall with all convenient speed be assigned and transferred so that the same may be legally and effectually vested in such new trustee or trustees either solely or jointly with the surviving or continuing trustees or a surviving or continuing trustee as the case may require.

(3) Every new trustee, as well before as after a conveyance, assignment or transfer pursuant to subsection (2), and every trustee appointed by the judge, shall have the same powers, authorities and discretions, and shall in all respects act as if he had originally been nominated a trustee by the deed, will or other instrument creating the trust.

**Consequences of appointment of new trustee**

**11.** On the appointment of a new trustee for the whole or any part of trust property

- (a) the number of trustees may be increased,
- (b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part of the trust property notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for any such part of the trust property,
- (c) it is not obligatory to appoint more than one new trustee where only one trustee was originally appointed, or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee is not discharged under section 10 from his trust unless there remain at least two trustees to perform the trust, and
- (d) any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are the trustees shall be executed or done.

**Powers of new trustee**

**12.** Every new trustee appointed has, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him, the same powers, authorities and discretions and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust.

**Interpretation of certain provisions**

**13.** The provisions of this Act relative to a trustee who has died include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the provisions of section 10.

**Application of previous sections**

**14.** Sections 10 to 13 apply only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument.

**Discharge of retiring trustee**

**15.(1)** Where there are more than two trustees, if one of them by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge and to the vesting of the trust property in the co-trustees alone, then the trustee desirous of being discharged shall be deemed to have retired from the trust and shall, by the deed, be discharged therefrom without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument.

**Vesting of property in new or continuing trustees**

**16.(1)** Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subjected shall vest in the persons who by virtue of such instrument become and are the trustees for performing the trust, that declaration shall, without any conveyance or assignment but subject to the provisions of the Land Titles Act (Canada), operate to vest in these persons as joint tenants and for the purposes of the trust, that estate, interest or right.

(2) Where an instrument by which a retiring trustee is discharged under this Act contains a declaration made under this section by the retiring and continuing trustees and by the other person, if any, empowered to appoint trustees, such declaration shall, without any conveyance or assignment but subject to the conditions in subsection (1), operate to vest in the continuing trustees alone as joint tenants and for the purposes of the trust, the estate, interest or right to which the declaration relates.

(3) This section does not extend to any share, stock, annuity or property transferable only in books kept by a company or other body, or in the manner prescribed by or under any Act.

(4) For the purposes of registration of an instrument the person or persons making the declaration shall be deemed the conveying party or parties and the conveyance shall be deemed to be made by him or them under a power conferred by this Act.

**Death of trustee**

17. Where an estate or interest of inheritance in real property is vested on an express trust in any person solely, the estate or interest shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or administrator in like manner as if the same were personal estate vesting in him and, accordingly, all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with the same shall belong to the deceased's executor or administrator with all obligations as if the same were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers.

**PURCHASE AND SALE****Method of sale**

18.(1) Where a trust for sale or a power of sale of property is vested in a trustee he may sell or concur with any other person in selling all or any part of the property either subject to prior charges or not, and either together or in lots by public auction or by private contract subject to any such conditions respecting title or evidence of title or any other matter as the trustee thinks fit with power to vary any contract for sale and to buy in at any auction or to rescind any contract for sale and to resell without being answerable for any loss.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power and shall have effect subject to the terms of that instrument and to the provisions therein contained.

**Power to sell subject to depreciatory conditions**

19.(1) No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2) No sale made by a trustee shall after the execution of the conveyance be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3) No purchaser upon any sale made by a trustee shall be at liberty to make any objection against the title upon the grounds in this section mentioned.

**Death of bare trustee holding fee simple estate**

20. Upon the death of a bare trustee of any corporeal or incorporeal hereditaments of which such trustee was seized in fee simple the hereditaments shall vest in the legal personal representative, from time to time, of such trustee.

**Power of judge to make order**

21.(1) Where in the management or administration of property vested in trustees, a sale, lease, mortgage, surrender, release or other disposition, or a purchase, investment, acquisition, expenditure or other transaction, is in the opinion of a judge expedient, but the same cannot be

effected by reason of the absence of any power for that purpose vested in the trustees by the trust instrument, if any, or by law, the judge may by order confer upon the trustees, either generally or in any particular instance, the necessary power for the purpose, on such terms, and subject to such provisions and conditions, if any, as the judge may think fit and may direct in what manner any money authorized to be expended, and the costs of any transaction, are to be paid or borne as between capital and income.

(2) A judge may, from time to time, rescind or vary any order made under this section, or may make any new further order.

(3) An application to a judge under this section may be made by the trustees, or by any of them, or by any person beneficially interested under the trust.

### **Discharge of trustee by receipt**

22. The bona fide payment of any money to and the receipt thereof by any person to whom it is payable upon any express or implied trust, or for any limited purpose, and the payment to and receipt by the survivors or survivor of two or more mortgagees or holders or the executors or administrators of such survivors or survivor or their or his assigns, effectually discharges the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security.

## **VARIOUS POWERS AND LIABILITIES**

### **Appointment of agents by trustees for certain purposes**

23.(1) A trustee may appoint a lawyer to be his agent to receive and give a discharge for any money or any valuable consideration or property receivable by such trustee under the trust: and no trustee shall be chargeable with breach of trust by reason only of his having made or concurred in making the appointment: but nothing in this section exempts a trustee from any liability that he would have incurred but for this section for permitting the money, valuable consideration or property to remain in the hands or under the control of the lawyer for a period longer than is reasonably necessary to enable the lawyer to pay or transfer the same to the trustee.

(2) A trustee may appoint a chartered bank or lawyer to be his agent to receive and give a discharge for any money payable to such trustee under or by virtue of a policy of assurance or otherwise; and no trustee shall be chargeable with a breach of trust by reason only of his having made or concurred in making the appointment; but nothing in this section exempts a trustee from any liability that he would have incurred but for this section for permitting the money to remain in the hands or under the control of the bank or lawyer for a period longer than is reasonably necessary to enable him to pay the same to the trustee.

### **Powers of trustees to insure property**

24.(1) A trustee may insure against loss or damage by fire any building or other insurable property to any amount, including the amount of any insurance then in effect, not exceeding three-fourths of the full value of the building or property and to pay the premiums for the insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person entitled wholly or partly to the income.



(2) This section does not apply to any building or property that a trustee is bound forthwith to convey absolutely to any cestui que trust upon being requested to do so.

#### **Breach of trust at instigation of beneficiary**

25. Where a trustee has committed a breach of trust at the instigation or request, or with the consent in writing of a beneficiary, a judge may, if he thinks fit, and notwithstanding that the beneficiary is a married woman entitled for her separate use, whether with or without a restraint upon anticipation, make any order as to the judge seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

#### **Power of trustee to give receipts**

26. The receipt in writing of any trustee for any money, securities or other personal property or effects payable, transferable or deliverable to him under any trust or power is a sufficient discharge for it and effectually exonerates the person paying, transferring or delivering it from seeing to the application or being answerable for any loss or misapplication of it.

#### **Settlement of debts and claims by trustee**

27.(1) An executor or administrator or two or more trustees, acting together, or a sole acting trustee where by the instrument, if any, creating the trust a sole trustee is authorized to execute the trusts and powers thereof may, where he or they may think fit, accept any composition or any security real or personal for any debt or for any property real or personal claimed and may allow any time for payment for any debt and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's or intestate's estate or to the trust, and for any of these purposes may enter into, give and execute such agreements, instruments of composition or arrangement and releases and do any other things which seem expedient to him or them without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust, and shall have effect subject to the terms of that instrument.

#### **Powers of surviving trustees**

28. Where a power or trust is given to or vested in two or more trustees jointly then, unless the contrary is expressed in the instrument, if any, creating the power or trust, the same may be exercised or performed by the survivor or survivors of them for the time being.

#### **Exercise of void power of attorney**

29.(1) A trustee acting or paying money in good faith under or in pursuance of any power of attorney is not liable for the act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power if this fact was not known to the trustee at the time of his so acting or paying.

(2) Nothing in this section affects the right of any person entitled to the money against the person to whom the payment is made, and the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee.

**Maintenance of infants**

30. Where any property is held by trustees in trust for an infant, either absolutely or contingently on his attaining the age of 19 years or on the occurrence of any event previously to his attaining that age, the trustees may at their sole discretion pay to the guardians, if any, of such infant, or otherwise apply for or towards the maintenance or education of such infant, the whole or any part of the income to which such infant may be entitled in respect of such property whether there be any fund applicable to the same purpose or any other person bound by law to provide for such maintenance or education or not, and such trustees shall accumulate all the residue of such income by way of compound interest by investing the same and the resulting income thereof from time to time in proper securities for the benefit of the person who ultimately becomes entitled to the property from which such accumulation arose; but the trustees at any time if it appears to them expedient may apply the whole or any part of such accumulations as if it were part of the income arising in the then current year.

**Sale of property held in trust for infants**

31. Where any property either real or personal is held by trustees in trust for an infant either absolutely or contingently on his attaining the age of 19 years or on the occurrence of any event previously to his attaining that age and where the income arising from such property is insufficient for the maintenance and education of such infant, the trustee by leave of a judge to be obtained in a summary manner may sell and dispose of any portion of such real or personal property and pay the whole or any part of the money arising from the sale to the guardians, if any, of the infant or otherwise to be applied for or towards the maintenance or education of such infant; and in the event of the whole of the money arising from any sale of the real or personal property not being immediately required for the maintenance and education of the infant, then the trustees shall invest the surplus money and the resulting income therefrom from time to time in proper securities and shall apply the money and the proceeds thereof from time to time for the education or maintenance of such infant and shall hold all the residue of the money and interest thereon not required for the education or maintenance of such infant for the benefit of the person who ultimately becomes entitled to the property from which such money and interest have arisen.

**Payment into court**

32.(1) Trustees, or the majority of trustees, having in their hands or under their control money or securities belonging to a trust, or to the estate of a deceased person, may as provided in the Judicature Act pay the same into the Supreme Court, and they shall subject to the Rules of Court be dealt with according to the order of a judge.

(2) The receipt or certificate of the clerk of the Supreme Court shall be a sufficient discharge to trustees for the money or securities so paid into court.

(3) Where any money or securities are vested in any persons as trustees and the majority are desirous of paying them into court but the concurrence of the other or others cannot be obtained, a judge may order the payment into court to be made by the majority without the concurrence of the other or others, and where any money or securities are deposited with any banker, broker or other depository, a judge may order payment or delivery of the money or securities to the majority of the trustees for the purpose of payment into court and every transfer, payment and delivery made in pursuance of an order is valid and takes effect as if it had been made on the authority or by the act of all the persons entitled to the money and securities so transferred, paid or delivered.

**Relief of trustees committing technical breach of trust**

**33.** Whenever in any proceeding affecting trustees or trust property it appears to the Supreme Court that a trustee whether appointed by the court or by an instrument in writing or otherwise, or that any person who in law may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach whether the transaction alleged or found to be a breach of trust occurred before or after the passing of this Act but has acted honestly and reasonably and ought fairly to be excused for the breach of trust and for omitting to obtain the directions of the Supreme Court in the matter in which he committed such breach, then the court may relieve the trustee either wholly or partly from personal liability for the same.

**RIGHTS AND LIABILITIES OF EXECUTORS AND ADMINISTRATORS****Distress for rent due to deceased lessor**

**34.(1)** The executors or administrators of a lessor may distrain upon the lands demised for any term or at will for the arrears of rent due to the lessor in his lifetime in like manner as such lessor might have done if living.

(2) The arrears mentioned in this section may be distrained for at any time within six months after the determination of the term of lease and during the continuance of the possession of the tenant from whom the arrears became due; and the law relating to distress for rent is applicable to the distress so made.

**Liability under joint obligations**

**35.** Where one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several, notwithstanding that there may be another person liable under the contract obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies are not liable to a greater extent than they would have been if this section had not been passed.

**Sale or mortgage to satisfy charges**

**36.** Where by any will a testator charges his real estate or any specific portion thereof with the payment of his debts or with the payment of any legacy or other specific sum of money and devises the estate so charged to any trustee or trustees for the whole of his estate or interest therein and does not make any express provision for the raising of such debts, legacy or sum of money out of such estate, the trustee or trustees notwithstanding any trusts actually declared by the testator may raise such debt, legacy or money by a sale and absolute disposition by public auction or private contract of the real estate or any part thereof or by a mortgage of the same or partly in one mode and partly in the other, and a mortgage so executed may reserve such rate of interest and fix such period of repayment as the person or persons executing the same think proper.

**Application of the above section**

**37.** The powers conferred by section 36 extend to every person in whom the estate devised is for the time being vested by survivorship, descent or devise, or to any person appointed under any power in the will or by the Supreme Court to succeed to the trusts created by the will.

**Protection of purchasers and mortgagees**

38. Purchasers or mortgagees are not bound to inquire whether the powers conferred by sections 36 and 37 or any of them have been duly and correctly exercised by the person or persons acting in virtue thereof.

**Powers of executor when no other person appointed**

39. Where there is in any will or codicil of a deceased person a direction, whether express or implied, to sell, dispose of, appoint, mortgage, encumber or lease any real estate and no person is by the said will, or a codicil thereto, or otherwise by the testator appointed to execute and carry the same into effect, the executors, if any, named in the will or codicil shall execute and carry into effect every such direction to sell, dispose of, appoint, encumber or lease such real estate, and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if the executors were appointed by the testator to execute and carry the same into effect.

**Powers of administrator with will annexed**

40. Where in a will or codicil thereto power is given to an executor or executors to sell, dispose of, appoint, mortgage, encumber or lease any real estate, or any estate or interest therein, whether such power is express or arises by implication, and where from any cause letters of administration with such will annexed have been committed by a court of competent jurisdiction to any person and such person has given the security required by this Act, such person shall exercise every such power and sell, dispose of, appoint, mortgage, encumber or lease the real estate and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if the last named person had been appointed by the testator to execute such power.

**Completion of pre-death conveyance obligation**

41. Where a person has entered into a contract in writing for the sale and conveyance of real estate, or any estate or interest therein, and the person has died intestate, or without providing by will for the conveyance of the real estate, or estate or interest therein, to the person entitled or to become entitled to the conveyance under the contract then, if the deceased would be liable to execute a conveyance were he alive, the executor, administrator or administrator with the will annexed, as the case may be, of the deceased person, shall give to the person entitled a good conveyance or conveyances of the estate and of such nature as the said deceased, if living, would be liable to give; and the conveyances are as valid and effectual as if the deceased were alive at the time of the making thereof and had executed them but shall not have any further validity.

**Liability for exercise of powers under this Act**

42. Every executor, administrator and administrator with the will annexed shall, as respects the additional powers vested in him by this Act and any money or assets by him received in consequence of the exercise of the powers, be subject to all the liabilities and compellable to discharge all the duties of whatsoever kind that, as respects the acts to be done by him under the powers, would have been imposed upon an executor or other person appointed by the testator to execute them or, in case of there being no such executor or person, would have been imposed by law or by any court of competent jurisdiction.

**Death of one representative, and priority of debts**

43.(1) Where there are several executors, administrators or administrators with the will annexed and one or more of them die, the powers created by this Act shall vest in the survivor or survivors.

(2) On the administration of the estate of a deceased person, in case of the deficiency of assets, debts due to the Crown and to the executor or administrator of the deceased person, and debts to others including therein respectively debts by judgment or order, and other debts of record, debts by speciality, simple contract debts, and such claims for damages as by any Act are payable in like order or administration as simple contract debts, shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing in this section contained shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate.

**Disputed claims of creditors**

44.(1) Where the executor or administrator gives to any creditor or other person of whose claims against the estate he has notice, or to the lawyer or agent of the creditor or other person, notice in writing that he disputes the claim and that he intends to avail himself of this section, the creditor or other person shall commence his action in respect of the claim within six months after the notice is given in case the debt or some part thereof is due at the time of the notice or within three months from the time the debt or some part thereof falls due if no part thereof is due at the time of the notice, and in default the claim shall be forever barred.

(2) Unless the creditor or other person within ten days after the receipt of the notice notifies the executor or administrator that he withdraws his claim, such executor or administrator may, if he thinks fit, apply to a judge for an originating summons calling upon such creditor or other person to establish his claim and upon the return of such summons the judge may allow or bar the claim or make such other order as to him may seem meet with or without costs against either party.

**Liability in respect of leases**

45.(1) Where an executor or administrator liable as such to the rents, covenants or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered, has satisfied all the liabilities under the lease or agreement for a lease which have accrued due and been claimed up to the time of the assignment hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease or agreement to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and among the persons entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said lease or agreement for a lease; and the executor or administrator shall not, after having assigned the lease or agreement and having, where necessary, set apart such sufficient fund, be personally liable in respect of any subsequent claim under the said lease or agreement.

(2) Nothing in this section prejudices the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed.

**Liability of executor or administrator in respect of conveyances or rent charges**

46.(1) Where an executor or administrator liable as such to the rents, covenants or agreements contained in any conveyance or rent charge, whether such rent be by limitation of use, grant or reservation or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said conveyance or agreement for a conveyance as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property or assigned the said agreement for such conveyance to a purchaser, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the persons entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said conveyance or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment and having, where necessary, set apart such sufficient fund, be personally liable in respect of any subsequent claim under the said conveyance or agreement for conveyance.

(2) Nothing in this section prejudices the right of the grantor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed.

**Notices to creditors**

47.(1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of a particular class or classes of creditors in which the creditors are not designated by name, or an executor or an administrator has given such or the like notices as in the opinion of the court in which such trustee, assignee, executor or administrator is sought to be charged, would have been given by the court in an action for the execution of the trusts of the deed or assignment or in an administration suit, for creditors and others to send in their claims against the person for the benefit of whose creditors such deed or assignment is made or against the estate of the testator or intestate, the trustee, assignee, executor or administrator shall, at the expiration of the time named in the notices or the last of the notices for sending in claims, be at liberty to distribute the proceeds of the trust estate or the assets of the testator or intestate, as the case may be, or any part thereof, among the persons entitled thereto having regard to the claims of which the trustee, assignee, executor or administrator has then notice, and shall not be liable for the proceeds of the trust estate or assets, or any part thereof so distributed to any person of whose claim the trustee, assignee, executor or administrator had no notice at the time of the distribution thereof or a part thereof, as the case may be.

(2) Nothing in this section prejudices the right of any creditor or claimant to follow the proceeds of the trust estate or the assets, or any part thereof, into the hands of the person or persons who may have received the same respectively.

**Summary application to court for advice**

48.(1) Any trustee, guardian, executor or administrator may without the institution of an action apply to a judge in the manner prescribed by Rules of Court for the opinion, advice or direction of the judge on any question respecting the management or administration of the trust property or the assets of a testator or intestate.

(2) The trustee, guardian, executor or administrator acting upon the opinion, advice or direction given by a judge is deemed so far as regards his own responsibility to have discharged his duty as trustee, guardian, executor or administrator in the subject matter of the application, unless he has been guilty of any fraud or wilful concealment or misrepresentation in obtaining the opinion, advice or direction.

### **Allowance to trustees**

49. A trustee under a deed, settlement or will, an executor or administrator, a guardian appointed by a court and testamentary guardian or other trustee, howsoever the trust is created, is entitled to any fair and reasonable allowance for his care, pains and trouble and his time expended in and about the trust estate, allowed by a judge.

### **Application of the previous section**

50. Where application is made to a judge for the purpose of settling the amount of compensation allowed by section 49, the judge may settle the amount although the trust estate is not before a judge in any action.

### **Judge may order an allowance out of the estate**

51. A judge may allow to the executor or trustee or administrator acting under a will or letters of administration a fair and reasonable allowance for his care, pains and trouble and his time expended in or about the executorship, trusteeship or administration of the estate and effects vested in him under the will or letters of administration, and in administering, disposing of and arranging and settling the same and generally in arranging and settling the affairs of the estate, and may make orders from time to time therefor, and compensation shall be allowed to an executor, trustee or administrator in passing his accounts.

### **Allowance fixed by instrument**

52. Sections 49, 50 and 51 do not apply where the allowance is fixed by the instrument creating the trust.

### **Lawyer entitled to profit costs**

53. Where a lawyer is a trustee, guardian or personal representative and has rendered necessary professional services to the estate, regard may be had, in making his allowance, to that circumstance, and the allowance shall be increased by such amount as may be deemed fair and reasonable in respect of these services.

### **Judicial trustees**

54.(1) Where application is made to a judge by or on behalf of the person creating or intending to create a trust or by or on behalf of a trustee or beneficiary, the judge may in his discretion appoint a person (in this Act called a judicial trustee) to be a trustee of the trust either jointly with any other person or as sole trustee, and if sufficient cause is shown, in place of all or any existing trustees.

(2) The administration of the property of a deceased person whether a testator or intestate shall be a trust and the executor or administrator shall be a trustee within the meaning of this section.

(3) Any fit and proper person nominated for the purpose in the application may be appointed a judicial trustee and in the absence of such nomination or if the judge is not satisfied of the fitness of a person nominated, any other competent person may be appointed, and in any case a judicial trustee shall be subject to the control and supervision of a judge.

(4) A judge may either on request or without request give to a judicial trustee any general or special directions in regard to the trust or the administration thereof.

(5) There may be paid to a judicial trustee out of the trust property any remuneration not exceeding the prescribed limits which a judge may assign in each case and the remuneration assigned shall, save as the judge may for special reasons otherwise order, cover all his work and personal outlay.

(6) Once in every year the accounts of every trust of which a judicial trustee has been appointed shall be audited and a report thereon made to a judge by the prescribed persons and in any case where a judge so directs an inquiry into the administration by a judicial trustee of any trust, or into any dealing or transaction of a judicial trustee shall be made in the prescribed manner.

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# CHAPTER 174

## VARIATION OF TRUSTS ACT

### **Judge may approve arrangement**

1.(1) Where any property is held on trusts arising before or after the coming into force of this Act under any will, settlement or other disposition, a judge may, if he thinks fit, by order approve on behalf of any person described in subsection (2) any arrangement, whether or not there is any other person beneficially interested who is capable of assenting thereto, varying or revoking all or any of the trusts or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts.

(2) A judge may approve an arrangement under subsection (1) on behalf of the following persons:

- (a) any person having, directly or indirectly, an interest, whether vested or contingent, under the trusts who by reason of infancy or other incapacity is incapable of assenting;
- (b) any person, whether ascertained or not, who may become entitled, directly or indirectly, to an interest under the trusts as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class of persons;
- (c) any person unborn;
- (d) any person in respect of any interest of his that may arise by reason of any discretionary power given to anyone on the failure or determination of any existing interest that has not failed or determined,

but the arrangement shall not be approved on behalf of any person described in paragraph (a), (b) or (c) unless the carrying-out thereof appears to be for the benefit of that person.

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# CHAPTER 175

## VITAL STATISTICS ACT

### **Interpretation**

1. In this Act,

- “birth” means the birth of a fetus which, after complete separation from the mother, shows any sign of life;
- “burial permit” means a permit to bury, cremate, remove or otherwise dispose of a dead body;
- “cemetery” means land set apart or used as a place for the interment or other disposal of dead bodies, and includes a vault, mausoleum and crematorium;
- “cemetery owner” includes the manager, superintendent, caretaker or other person in charge of a cemetery;
- “certificate” means a certified extract of the prescribed particulars of a registration filed in the office of the registrar;
- “cremation” means disposal of a dead body by incineration in a crematorium;
- “error” means incorrect information, and includes omission of information;
- “funeral director” means a person who takes charge of a dead body for the purpose of burial, cremation or other disposition;
- “incapable” means unable because of death, illness, absence from the Yukon, or otherwise;
- “international classification” means the International Statistical Classification of Diseases, Injuries and Causes of Death as last revised by the International Conference assembled for that purpose and published by the World Health Organization;
- “registrar” means the registrar of vital statistics;
- “stillbirth” means the complete expulsion or extraction from its mother after at least 20 weeks pregnancy, or after attaining weight of a least 500 g, of a product of conception in which, after the expulsion or extraction, there is no breathing, beating of the heart, pulsation of the umbilical cord or unmistakable movement of voluntary muscle.

### **Notice of birth**

2. The medical practitioner or other person who assumes responsibility for the delivery of a child at birth shall, within 48 hours after the birth, deliver or mail to the registrar a notice of the birth in the prescribed form.

### **Reporting and registration of births**

3.(1) The birth of every child born in the Yukon shall be reported and registered as provided in this Act.

(2) Within 30 days after the day of the birth of a child in the Yukon

- (a) the mother of the child,
- (b) the father of the child, if he has knowledge of the birth,
- (c) if the mother is incapable and the father is incapable or lacks knowledge of the birth, the person standing in the place of the parents of the child, or
- (d) if there is no person to whom paragraph (a), (b) or (c) applies, any person who has knowledge of the birth of the child,

shall complete and deliver or mail a statement in the prescribed form respecting the birth to the registrar.

(3) If more than one child is born, a separate statement for each child shall be completed and delivered or mailed as provided in subsection (2), and each statement shall state

- (a) the number of children born, and
- (b) the number of the child in order of birth.

### **Registration of particulars**

4.(1) Subject to subsections (2) and (3), the birth of a child to a married woman shall be registered showing the particulars of the husband as those of the father of the child unless

- (a) the mother and the husband file with the registrar a statutory declaration that the husband is not the father of the child, or
- (b) the mother files with the registrar a statutory declaration stating that
  - (i) at the time of conception she was living separate and apart from her husband, and
  - (ii) her husband is not the father of the child.

(2) Subject to subsection (3), where a statutory declaration is filed pursuant to subsection (1), no particulars of the father shall be given in the statement under subsection 3(2).

(3) Where the necessary statutory declarations are filed under subsection (1), and the mother and a person acknowledging himself to be the father jointly request in writing, the particulars of the person acknowledging himself to be the father may be given as particulars of the father and, if the request is made after the registration of the birth, the registrar may amend the registration in accordance with the request by making the necessary notation on the registration.

(4) Except as provided in subsection (5) or on an order of a court of competent jurisdiction, the registration of the birth of a child to an unmarried woman shall not show the particulars of the father.

(5) Where an unmarried woman, who is the mother of a child, and a person acknowledging himself to be the father jointly request in writing, the particulars of the person so acknowledging may be given as particulars of the father and, if the request is made after the registration of the birth, the registrar may amend the registration in accordance with the request by making the necessary notation on the registration.

### **Name of child**

5.(1) Subject to subsection (2), the birth of a child shall be registered showing as the surname of the child

- (a) the surname of the mother,
- (b) the surname of the person shown on the registration as the father, or
- (c) a hyphenated surname comprised of the surnames of the mother and father.

(2) Where the mother or father of a child has a surname that is a hyphenation of two or more parts, the child's surname under paragraph (1)(c) shall be comprised of not more than two of such parts, one part from the mother's surname and the other from the father's surname.

(3) In case of a disagreement over the choice of a surname, the registrar shall assign to the child a surname consisting of two parts, pursuant to subsection (1) or (2), as the case may be.

**Registration of birth**

6.(1) Subject to subsection (2), the registrar shall, on receipt within one year from the day of the birth of a statement under subsection 3(2), register the birth by signing the statement, and the signed statement constitutes the registration of the birth.

(2) Where the registrar is not satisfied as to the truth and sufficiency of the statement under subsection 3(2), the registrar may request further details from any person the registrar believes to have knowledge of the facts, or the registrar may appoint a person to inquire into the matter.

(3) Where the registrar, upon receipt of further details or the report of a person appointed to inquire into the matter under subsection (2), is satisfied as to the truth and sufficiency of the matters stated in the application and that the application was made in good faith, the registrar shall register the birth by signing the statement, and the signed statement constitutes the registration of the birth.

(4) Where a birth is not registered within one year after the date of the birth, any person may apply in the prescribed form to the registrar for registration of the birth, but the application shall be

- (a) verified by a statutory declaration,
- (b) accompanied by the prescribed fee and a statement in the prescribed form respecting the birth, and
- (c) accompanied by such other evidence as may be prescribed.

(5) Where the registrar is satisfied as to the truth and sufficiency of the matter stated in the application under subsection (4) and that the application is made in good faith, the registrar shall register the birth by signing the statement, and the signed statement constitutes the registration of the birth.

**Late registration**

7. Where the statement under section 3(2) is not completed and delivered or mailed in the manner and within the time required, every person upon whom the duty of completing and delivering or mailing the statement is imposed, remains liable to perform that duty notwithstanding the expiration of the time provided, and is, in respect of each successive period of 30 days after which the person neglects or fails to complete or mail the statement, guilty of an offence.

**Foundlings**

8.(1) Where a new born child is found deserted, the person who finds the child, and any person in whose charge the child may be, shall give to the registrar, within seven days after the finding or taking charge of the child, all information that the person possesses as to the particulars required to be registered concerning the birth of the child.

(2) The registrar, on receipt of the information under subsection (1) and on being satisfied that every reasonable effort has been made to identify the child, shall

- (a) require the person who found or has charge of the child
  - (i) to complete a statutory declaration concerning the facts of the finding of the child, and

- (ii) to complete, so far as the person is able, a statement in the prescribed form required under section 3(2),
- (b) cause the child to be examined by a medical practitioner with a view to determining as nearly as possible the date of the birth of the child, and
- (c) require the medical practitioner to make a statutory declaration setting forth the facts as determined by the examination.

(3) The registrar, on receipt of the report and the evidence referred to in subsection (2), shall review the case and, if satisfied as to the correctness and sufficiency of the matters stated, shall register the birth.

(4) Subject to subsection (3), the registration shall establish a date of birth, a place of birth, a surname and given name for the child.

(5) The registrar, on registering a birth under this section, shall transmit forthwith to the director of family and children's services a copy of all documents respecting the child filed or registered pursuant to this section.

(6) Where, subsequent to the registration of a birth under this section, the identity of the child is established to the satisfaction of the registrar or further relevant information is received by the registrar, the registrar shall

- (a) cancel, add to or correct the registration of the birth made under this section, and
- (b) where necessary, cause a new registration in accordance with the actual facts of the birth to be made and substituted for the first registration made under this section.

(7) The registrar shall make a notation of any cancellation on the registration under subsection (6) and no certificate shall be issued in respect of the cancelled registration.

(8) Where a new registration of the birth of a child is made under subsection (6), the date of registration shall be as shown on the first registration.

(9) The registrar shall notify the director of family and children's services forthwith of any action taken under subsection (6).

(10) Where a person has received a certificate issued in respect of the registration of the birth of a child made under subsection (4) and the registration is cancelled under subsection (6), the person shall, upon request from the registrar, deliver the certificate to the registrar for cancellation.

#### **Alteration or addition of given name**

9.(1) Except in a case to which section 25 applies, where the birth of a child has been registered and

- (a) the given name under which the child was registered is changed, or
- (b) the child was registered without a given name, both parents, the surviving parent, the guardian of the child,

the person procuring the name to be changed or given, or the child after the child has attained the age of majority, may deliver to the registrar an application setting forth the particulars of the change or of the name given.

(2) Any application under subsection (1) shall be accompanied by

- (a) a statutory declaration completed by the applicant.
- (b) a baptismal certificate, showing the given name under which the child was baptized, or
- (c) other documentary evidence satisfactory to the registrar.

(3) The registrar, on being satisfied that the application is made in good faith and on payment of the prescribed fee, shall make a notation of the change on the registration of the birth.

(4) No alteration of or addition to a given name shall be made under this section in any registration of a birth, unless the name of the child was changed or the name was given to the child within 12 years after the day of the birth.

(5) No alteration of or addition to a given name shall be made in a registration of a birth, except as provided in this Act or the Change of Name Act.

(6) Any birth certificate issued after the making of a notation pursuant to this section shall be prepared as if the registration had been made containing the changed or new given name at the time of registration.

### **Registration of stillbirths**

10.(1) Every stillbirth in the Yukon shall be registered as provided in this Act.

(2) Where a stillbirth occurs, the person who would have been responsible for the registration under section 3 if it had been a birth shall complete and deliver to the registrar or the funeral director a statement in the prescribed form respecting the stillbirth.

(3) The medical practitioner in attendance at a stillbirth, or, subject to subsection (4), where there is no medical practitioner in attendance, a coroner or a medical practitioner shall complete the prescribed medical certificate showing the cause of the stillbirth and shall deliver it to the registrar or the funeral director.

(4) Where the registrar is satisfied that there was no medical practitioner and no coroner within a reasonable distance from the place where a stillbirth has occurred, and that it is not reasonably practicable to have the medical certificate completed under subsection (3), the registrar may prepare and sign a certificate prepared from the statements of the relatives or the parents of the stillborn child or of other persons having adequate knowledge of the facts.

(5) On receipt of the statement, the registrar shall register the stillbirth by signing the statement, and the signed statement constitutes the registration of the stillbirth.

(6) On the registration of a stillbirth, the registrar shall forthwith prepare and deliver to the person requiring them for the purpose of the burial, cremation or other disposition of the body of the stillborn child

- (a) an acknowledgment that the stillbirth is registered, and
- (b) a burial permit.

(7) Subject to this section, sections 2 to 8 and 18 to 23 apply, with the necessary changes, to stillbirths.

**Notation of change of sex**

11.(1) Where a person has had his or her anatomical sex structure changed to a sex other than that which appears on the person's birth certificate, the registrar, on production of separate affidavits of two medical practitioners stating that the anatomical sex of the person has changed and evidence satisfactory to the registrar as to the identity of the person,

- (a) where the sex of the person is registered in the Yukon, shall cause a notation of the change to be made on the registration, and
- (b) where the sex of the person is registered outside the Yukon, shall transmit to the officer in charge of the registration of births and marriages in the jurisdiction in which the person is registered, a copy of the proof of the change of sex produced to the registrar.

(2) Every birth or marriage certificate issued after the making of a notation under this section shall be issued as if the registration had been made with the sex as changed.

**Registration of adoptions**

12.(1) On receipt of a certified copy of an order of adoption transmitted under the Children's Act, the registrar shall register the adoption by signing the copy, and the copy then constitutes the registration of the adoption.

(2) Where, at the time of the registration of the adoption, or at any time afterward, there is in the office of the registrar a registration of the birth of the person adopted, the registrar, on production of evidence satisfactory to the registrar of the identity of the person, shall

- (a) delete the registration of birth from the registration files, and
- (b) substitute a registration of adoption in accordance with the facts contained in the order of adoption showing
  - (i) the date and the place of birth of the adopted person recorded in the original registration,
  - (ii) as the mother of the adopted person, the adopting mother, together with the particulars pertaining to her, and
  - (iii) as the father of the adopted person, the adopting father, together with particulars pertaining to him.

(3) Where a person is adopted pursuant to an order, judgment or decree of adoption made by a court of competent jurisdiction in another province or state, the registrar

- (a) on receipt of a certified copy of the order, judgment or decree, and
- (b) on production of evidence satisfactory to the registrar of the identity of the person,

shall, if there is in the registrar's office a registration of the birth of that person, register the adoption in the manner referred to in subsection (1), and shall substitute the registration of adoption in the manner referred to in subsection (2).

(4) When a person born outside the Yukon is adopted pursuant to the Children's Act, the registrar shall transmit a certified copy of the order of adoption to the person having charge of the registration of births in the province, or state in which the person was born.



**Special register of adoptions**

13.(1) The registrar shall maintain a special register in which the registrar shall keep

- (a) the original registrations of birth withdrawn from the registration files pursuant to section 12, and
- (b) the copies of all orders, judgments and decrees received by the registrar for the purposes of section 12, other than the copy required for the purposes of subsection 12(4).

(2) Where one of the parties to a proposed marriage is an adopted child, the registrar may refer to the special register on the request of an issuer, a cleric or a marriage commissioner within the meaning of the Marriage Act, for the purpose of determining whether the parties are within the forbidden degrees of consanguinity.

(3) Except as authorized by this section, the special register and any entry or information or documents contained in it shall not be made public or disclosed to any person except on the order of the Supreme Court.

**Birth certificate after adoption**

14. Where a child in the Yukon is adopted pursuant to the laws of the Yukon or of another jurisdiction and a registration of adoption has been made pursuant to section 12, every certificate of birth of that child subsequently issued by the registrar

- (a) shall be in accordance with the registration of adoption,
- (b) shall indicate the legal parents in accordance with the Children's Act in any case where parentage is shown, and
- (c) shall not indicate anything that would disclose that the child is an adopted child.

**Registration of marriages**

15.(1) Every marriage solemnized in the Yukon shall be registered as provided in this Act.

(2) Every person authorized by law to solemnize marriage in the Yukon shall immediately after he or she solemnizes a marriage, prepare a statement in the prescribed form respecting the marriage, and the statement shall be signed by

- (a) each of the parties to the marriage,
- (b) at least two adult witnesses to the marriage, and
- (c) the person by whom the marriage was solemnized.

(3) The person by whom the marriage was solemnized shall, within 30 days after the day of the marriage, deliver or mail the completed statement to the registrar.

(4) On the receipt within one year from the day of a marriage of a completed statement in the prescribed form respecting the marriage, the registrar, if satisfied as to the statement's truth and sufficiency, shall register the marriage by signing the statement, and the signed statement constitutes the registration of the marriage.

**Registration of marriage by registrar**

16.(1) Where a marriage is not registered within one year after the day of the marriage, any person may apply in the prescribed form to the registrar for registration of the marriage, but the application shall be

- (a) verified by statutory declaration,
- (b) accompanied by the prescribed fee and a statement in the prescribed form respecting the marriage, and
- (c) accompanied by such other evidence as may be prescribed.

(2) Where the registrar is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, the registrar shall register the marriage by signing the statement, and the signed statement constitutes the registration of the marriage.

**Registration of divorces and nullities**

17.(1) Within ten days after an order dissolving or annulling a marriage is made by the Supreme Court, the clerk of the court shall forward a certified copy of the order, judgment or decree to the registrar.

(2) On receipt of a certified copy of an order, judgment or decree from the Supreme Court respecting the dissolution or annulment of a marriage, the registrar shall register the dissolution or annulment by signing the statement, and the signed statement constitutes the registration of the dissolution or annulment.

(3) Where, at the time of the registration of the dissolution or annulment or at any time afterward, there is in the office of the registrar a registration of the dissolved or annulled marriage, the registrar, on production of evidence satisfactory to the registrar as to the identity of the persons, shall

- (a) make a notation of the dissolution or annulment on the registration of the marriage, and
- (b) make a notation of the registration of the marriage on the registration of the dissolution or annulment.

(4) Where a marriage is dissolved or annulled by an order, judgment or decree made by a court of competent jurisdiction in a province, or by an Act of the Parliament of Canada, the registrar,

- (a) on receipt of a copy of the Act or certified copy of the order, judgment or decree, and
- (b) on production of evidence satisfactory to the registrar of the identity of the persons, together with a statement in the prescribed form

shall, if there is in the registrar's office a registration of the marriage, register the dissolution or annulment in the manner referred to in subsection (2) and shall make the notations required by subsection (3).

(5) Every marriage certificate issued after the making of a notation pursuant to this section shall contain a copy of the notation.

(6) Where a marriage solemnized in another province is dissolved or annulled in the Yukon, the registrar, on receipt of the certified copy of the order, judgment or decree respecting the dissolution or annulment, shall transmit a certified copy of the order, judgment or decree to the person having charge of registration of marriage in the province in which the marriage was solemnized.

### **Registration of deaths**

**18.(1)** The death of every person who dies in the Yukon shall be registered as provided in this Act.

(2) The personal particulars of the deceased person shall, upon the request of the funeral director, be set forth in the prescribed form and delivered to the funeral director

- (a) by any relative of the deceased residing or being in the Yukon having knowledge of the facts,
- (b) by any other adult person having knowledge of the facts, or
- (c) by the coroner who has been notified of the death and has made an inquiry or held an inquest regarding the death.

(3) On receipt from the funeral director of the prescribed form completed in accordance with subsection (2),

- (a) the medical practitioner who was last in attendance during the last illness of the deceased,
- (b) where the death occurs without medical attendance and under circumstances that do not require any inquiry or inquest under the Coroners Act, the medical practitioner who examines the body of the deceased, or
- (c) a coroner who conducts an inquest on the body or an inquiry into the circumstances of the death,

shall promptly after the death, inquest or inquiry, as the case may be complete and sign a medical certificate included in the prescribed form stating the cause of death according to the international classification, as last revised by the International Commission assembled for that purpose, and deliver the form to the funeral director.

(4) Subject to subsection 21(1), where there is reason to believe that a person has died under circumstances that require an inquiry or inquest under the Coroners Act, no acknowledgment of registration of the death and no burial permit shall be issued by the registrar unless

- (a) an inquiry has been made into the circumstances of the death or an inquest has been held under the Coroners Act,
- (b) the coroner or a medical practitioner has signed the medical certificate of the cause of death in accordance with subsection (3), and
- (c) the other provisions of this Act respecting the registration of the death have been complied with.

(5) Upon receipt of the personal particulars respecting the deceased and of the medical certificate, the funeral director shall complete a statement in the prescribed form and deliver the statement to the registrar.

**Registration of death by registrar**

19.(1) Where the registrar receives a statement in the prescribed form respecting a death within one year after the day of the death, the registrar, if satisfied as to the truth and sufficiency of the statement, shall register the death by signing the statement, and the signed statement constitutes the registration of death.

(2) Where a death is registered under subsection (1), the registrar shall prepare and issue to the funeral director an acknowledgment that the death is registered and a burial permit.

**Late registration of death**

20.(1) Where a death is not registered within one year after the day of the death, any person may apply in the prescribed form to the registrar for registration of the death, but the application shall be accompanied by a statement in the prescribed form respecting the death and such other evidence as may be prescribed.

(2) Where the registrar is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, the registrar shall register the death by signing the statement, and the signed statement constitutes the registration of death.

**Burial permit**

21.(1) Where there is reason to believe that a person has died under any of the circumstances referred to in subsection 18(4) and it is impracticable for the coroner or a medical practitioner to complete a medical certificate, the registrar, upon being supplied with a warrant from the coroner releasing the body for burial or other disposition, shall issue a burial permit.

(2) A coroner shall, within seven days after determining the cause of a death or completing an investigation, deliver to the registrar the medical certificate referred to in subsection 18(3).

(3) A medical practitioner shall, within seven days after determining the cause of a death, deliver to the registrar the medical certificate referred to in subsection 18(3).

(4) Subject to subsections (1) and (5), no person shall, with respect to a person who dies in the Yukon, bury or otherwise dispose of the body, remove the body from the Yukon except temporarily for the purpose of preparing it for burial, or conduct or take part in a funeral or religious service in connection with the burial or other disposition of the body, unless

- (a) the death is registered as provided in this Act,
- (b) an acknowledgment of the registration of death and a burial permit have been obtained from the registrar, and
- (c) the person conducting the funeral or religious service is in possession of the burial permit.

(5) Where extreme hardship or anguish could not be avoided by the application of subsection (4) without relaxation of its strictness, a provisional burial permit may be obtained from the registrar and the funeral or religious service and the disposition or removal of the body may take place if

- (a) there is no reason to believe that the death occurred from other than natural causes, and

- (b) the funeral director has signed and filed with the registrar a notice setting forth
  - (i) the name, date and place of death of the person whose body is to be disposed of or removed, and
  - (ii) a statement explaining the circumstances which render him or her unable to comply with subsection (4) without causing extreme hardship or anguish.

(6) The funeral director shall, promptly after the funeral, religious service, disposition or removal of the body under subsection (5) carry out the duties imposed on the funeral director by subsection 18(5).

(7) Where the body of any person is to be removed by a common carrier to the place of burial or other disposition, the removal shall not take place unless the prescribed copies of the burial permit have been affixed to the outside of the casket.

(8) The funeral director shall

- (a) at the place of burial or other disposition, remove any copies of the burial permit affixed to the outside of the casket,
- (b) deliver the prescribed copy of the burial permit to the person conducting the funeral or religious service, and
- (c) deliver the prescribed copy of the burial permit to the cemetery owner, or where no person is in charge of the cemetery at the time of the burial or other disposition of the body, write across the face of the burial permit the words "No person in charge", sign the permit and mail it to the registrar.

(9) Where a death occurs outside the Yukon and the burial or other disposition of the body is to take place in the Yukon, a burial permit or other document required under the law of the place in which the death occurs, signed by the registrar or other proper officer, is sufficient authority for the burial or other disposition of the body.

(10) The registrar may, upon application in the prescribed form accompanied by the prescribed fee, issue a reburial permit for the reburial of a body that has been disinterred.

### **Cemetery owner's duties**

22.(1) No cemetery owner shall permit the burial, reburial or cremation of a body in the cemetery unless the funeral director or the person officiating at the burial has delivered to the cemetery owner the prescribed copy of the burial permit or the reburial permit as the case may be.

(2) At the end of each month, every cemetery owner shall transmit to the registrar the copies of the burial permits and the reburial permits received by the cemetery owner under subsection (1) in respect of the burials, reburials and cremations that took place during the month in that cemetery.

**Births and deaths on aircraft and ships**

23. Where a birth or death occurs on a vessel underway or on an aircraft in flight, and the vessel's first port of entry or the aircraft's first place of landing after the birth or death is in the Yukon, the birth or death shall, for the purposes of this Act, be deemed to have occurred in the Yukon.

**Church records**

24. Where registers or records of baptisms, marriages or burials kept by any church or religious body in the Yukon are now on file or are afterward, with the approval of the registrar placed on file in the office of the registrar, the registers or records shall be preserved and shall remain in the custody of the registrar as part of the records of the office.

**Notation of change of name**

25.(1) Where the name of a person is changed in the Yukon under the law of the Yukon or is changed in another province or state by or under a statute of that province or state, the registrar, on production of proof of the change and evidence satisfactory to the registrar as to the identity of the person,

- (a) if the birth or marriage of the person is registered in the Yukon, shall cause a notation of the change to be made on the registration,
- (b) if the change was made under the Change of Name Act and the person was born or married in Canada but outside the Yukon, shall transmit to the officer in charge of the registration of births and marriages in the province of Canada in which the person was born or married, a copy of the proof of the change of name produced to the registrar, and
- (c) if the change was made under the Change of Name Act and the person was born or married outside Canada and if requested by the person whose name has been changed, shall transmit to the officer in charge of the registration of births and marriages in the state in which the person was born or married, a copy of the proof of the change of name produced to the registrar.

(2) Every birth or marriage certificate issued after the making of a notation under this section shall be issued as if the registration had been made in the name as changed.

**Fraudulent or improper registrations and certificates**

26.(1) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or other evidence satisfactory to the registrar that may be adduced by any person interested, the registrar, if satisfied that an event registered under this Act did not in fact occur, may

- (a) cancel the registration, and
- (b) order that every certificate issued in respect of that registration be delivered to the registrar for cancellation.

(2) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or other evidence satisfactory to the registrar that may be adduced by any person interested, the registrar, if satisfied that a certificate was obtained or is being used for fraudulent or improper purposes, may make an order requiring the delivery to the registrar of that certificate.

(3) A person who has in his or her possession or under his or her control, a certificate in respect of which an order has been made under subsection (1) or (2), shall forthwith, on receipt of the order, deliver the certificate to the registrar for cancellation.

(4) The registrar shall retain all registrations and certificates cancelled under this section, together with the order and all related documents.

### **Corrections**

27.(1) Where registration documents are in the possession of the registrar and it is reported that an error exists in the registration, other than an error of the kind referred to in subsection 26(1), the registrar shall inquire into the matter and if satisfied that an error has been made, the registrar may correct the error by making a notation of the correction on the registration.

(2) Where the person who furnished the information contained in the registration to be corrected appears in person, the registrar may permit the correction by altering the original entry.

(3) Where, after registration, documents have been received by the registrar, or registration has been made by the registrar, it is reported that an error exists in the registration, other than an error of the kind referred to in subsection 26(1), the registrar shall inquire into the matter and, on the production of evidence satisfactory to the registrar and verified by statutory declaration, the registrar may correct the error by making a notation of the correction on the registration.

(4) Where, after the correction of an error, application is made for a certificate, the certificate shall be prepared as if the registration had been made containing correct particulars at the time of registration.

### **Appointment of officials**

#### **28. The Commissioner in Executive Council may appoint**

- (a) a registrar of vital statistics who shall be responsible for the administration of this Act and for the direction and supervision of staff, and
- (b) a deputy registrar of vital statistics to assist the registrar and to perform the duties of the registrar during the absence of the registrar.

### **Search of records**

29.(1) On application, any person furnishing information satisfactory to the registrar and paying the prescribed fee, may, if the registrar is satisfied that the information is not to be used for an unlawful or improper purpose, have a search made by the registrar

- (a) for the registration in the registrar's office of any birth, stillbirth, marriage, death, adoption, change of name or dissolution or annulment of marriage, or
- (b) for the record of any baptism, marriage or burial placed on file in the office of the registrar under section 24.

(2) The registrar shall make a report on the search which shall state only the following information:

- (a) whether or not the birth, stillbirth, marriage, death, adoption, change of name or dissolution or annulment of marriage, baptism or burial is registered or recorded;
- (b) if registered, its registration number.

**Issuance of certificates and copies**

**30.(1)** On application, any person furnishing information satisfactory to the registrar and paying the prescribed fee, may, if the registrar is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in the prescribed form in respect of the registration of the birth of any person, and the certificate shall contain the following particulars of the registration:

- (a) the name of the person;
- (b) the date of birth;
- (c) the place of birth;
- (d) the sex of the person;
- (e) the date of registration;
- (f) the serial number of registration;
- (g) such other particulars as may be prescribed.

(2) Where application has been made in the prescribed form and the prescribed fee has been paid, a copy or certified copy of the registration of a birth

- (a) may be issued to a person who requires it for a stated reason that in the opinion of the registrar justifies the issuance of it, or
- (b) may be issued to a person on the order of a court.

(3) On application, any person furnishing information satisfactory to the registrar and paying the prescribed fee may, if the registrar is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in the prescribed form in respect of the registration of a marriage and the certificate shall contain the following particulars of the registration:

- (a) the names of the parties to the marriage;
- (b) the date of the marriage;
- (c) the place where the marriage was solemnized;
- (d) the date of registration;
- (e) the serial number of the registration;
- (f) such other particulars as may be prescribed.

(4) Where application has been made in the prescribed form and the prescribed fee has been paid, a copy or certified copy of the registration of a marriage

- (a) may be issued to a party to the marriage,
- (b) may be issued to a person who requires it for a stated reason that in the opinion of the registrar justifies the issuance of it, or
- (c) may be issued to a person on the order of a court.

(5) On application, any person furnishing information satisfactory to the registrar and paying the prescribed fee may, if the registrar is satisfied that it is not to be used for an unlawful or improper purpose, and subject to subsection (6), obtain a certificate in the prescribed form in respect of the registration of a death.



(6) No certificate issued in respect of the registration of a death shall be issued in a manner that discloses the cause of death as certified on the medical certificate, except on the order of a court.

(7) Where application has been made in the prescribed form and the prescribed fee has been paid, a copy or certified copy of the registration of a death or stillbirth

- (a) may be issued to a person who requires it for a stated reason that in the opinion of the registrar justifies the issuance of it, or
- (b) may be issued to a person on the order of a court.

(8) Any person, on applying in the prescribed form and paying the prescribed fee may, with the approval of the registrar and subject to the same limitations as those respecting copies and certified copies set out in subsections (2), (4) and (7), obtain a certificate in the prescribed form in respect of the record of a baptism, marriage or burial placed on file under section 24.

(9) No certificate, copy or certified copy shall be issued under this Act in respect of the registration of an adoption, change of name or dissolution or annulment of marriage.

(10) Notwithstanding subsections (2), (4), (7) and (8), any person, on applying in the prescribed form and paying the prescribed fee, may obtain a copy or certified copy of

- (a) a registration of birth, stillbirth, marriage or death, or
- (b) the record of a baptism, marriage or burial placed on file under section 24

after 100 years after the event that was registered or recorded.

(11) A copy or certified copy of the registration of a birth, marriage, death or stillbirth may only be issued pursuant to this section.

### **Certificates to be issued only by registrar**

31.(1) Every certificate, copy or certified copy, issued under section 30, shall be issued by the registrar.

(2) Where the signature of the registrar or another official is required for any purpose of this Act, the signature may be written, engraved, lithographed or reproduced by any other mode of reproducing words in visible form.

(3) Every document issued under this Act under the signature of the registrar or other official is and remains valid, notwithstanding that the registrar or the official ceased to hold office before the certificate was issued.

### **Appeals**

32.(1) Where an application for registration of a birth, stillbirth, marriage or death, or notation of a change of sex, is refused by the registrar, the person making the application may apply to the Supreme Court for an order requiring the registrar to accept the application and register the birth, stillbirth, marriage or death, or note the change of sex.

(2) The court, having regard to the standards respecting delayed registration as set out in the regulations for the guidance of the registrar, may make an order applied for under subsection (1) where the court

- (a) is satisfied that the application is made in good faith, and
- (b) is satisfied as to the truth and sufficiency of the evidence adduced on the application.

(3) The clerk of the court shall forthwith send a copy of the order to the registrar who shall comply with the order and attach the copy to the registration.

(4) Where an application for a certificate or a search in respect of the registration of a birth, stillbirth, marriage or death is refused by the registrar, the person making the application may apply to the Supreme Court for an order requiring the registrar to issue the certificate and make the search.

(5) The court may make an order applied for under subsection (4) where the court is satisfied that

- (a) the application is made in good faith, and
- (b) the applicant has good reason for requiring a certificate or search.

(6) Where the registrar has made an order under section 26, any person may, within two years thereafter, apply to the Supreme Court for an order confirming or setting aside the order of the registrar, and the court may make the order.

(7) Any application to the Supreme Court under subsection (1) or subsection (4) must be made within one year of the date of the registrar's refusal.

### **Power to take affidavits**

33. The registrar and every official acting under this Act may take the affidavit or statutory declaration of any person for the purposes of this Act.

### **Publication of statistical information**

34. The registrar may compile, publish and distribute statistical information respecting the births, stillbirths, sex changes, marriages, deaths, adoptions, changes of name and dissolutions and annulments of marriage registered or noted during any period that the registrar considers appropriate in the public interest.

### **Annual report**

35. As soon as convenient after the first day of January in each year, the registrar shall make, for the use of the Legislative Assembly and for public information, a statistical report of the births, stillbirths, sex changes, marriages, deaths, adoptions, changes of name and dissolutions and annulments of marriage during the proceeding calendar year.

### **Confidentiality**

36.(1) No person employed in the administration of this Act shall

- (a) communicate or allow to be communicated to any person not entitled to it any information obtained under this Act, or

- (b) allow any unauthorized person to inspect or have access to any records containing information obtained under this Act.

(2) Subsection (1) does not prohibit the compilation, furnishing or publication of statistical data that does not disclose specific information with respect to any particular person.

#### **Notations**

**37.** Every notation made under this Act

- (a) shall be effected without altering or defacing any entry on the registration, and
- (b) shall be dated and signed by the person making the notation.

#### **Offences**

**38.(1)** A person who contravenes this Act or the regulations commits an offence.

(2) Where more than one person is required to give notice to register, or to furnish a statement, certificate or particulars required under or pursuant to this Act and the duty is carried out by any of those persons, the other or others are relieved of further responsibility for doing so.

#### **Agreements with Canada**

**39.** The Commissioner in Executive Council may, on behalf of the Government of the Yukon, enter into agreements with the Government of Canada in respect of any matter he or she considers advisable relating to the purposes and provisions of this Act.

#### **Regulations**

**40.** The Commissioner in Executive Council may make regulations

- (a) prescribing the forms to be used in carrying out the provisions of this Act;
- (b) prescribing anything required by this Act to be prescribed or provided for in the regulations;
- (c) designating the persons who may have access to or may be given copies of or information from the records in the office of the registrar and prescribing an oath of secrecy to be taken by those persons;
- (d) respecting the registration of births, marriages, deaths, stillbirths, dissolutions and annulments of marriage, adoptions or changes of name in cases not otherwise provided for in this Act;
- (e) prescribing the fees to be paid for searches, certificates and anything done or permitted to be done under this Act and providing for the waiver of payment of any fee in favour of any person or class of persons;
- (f) designating the persons who may sign registrations and notations;
- (g) prescribing the evidence on which the registrar may register a birth, stillbirth, marriage or death after one year has elapsed;
- (h) requiring persons in charge of hospitals to make returns of the births of all children born in the hospitals;
- (i) for the purpose of effectively securing observance of this Act, and generally for the better carrying out of its provisions and obtaining the information required under it.



# CHAPTER 176

## WAREHOUSE KEEPERS LIEN ACT

### Interpretation

#### 1. In this Act,

“goods” includes personal property of every description that is deposited with a warehouse keeper as bailee;

“warehouse keeper” means a person lawfully engaged in the business of storing goods as a bailee for hire.

### Lien

2.(1) Subject to section 3, every warehouse keeper has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority.

(2) The lien is for the amount of the following warehouse keeper’s charges:

- (a) all lawful charges for storage and preservation of the goods;
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooping and other expenses in relation to the goods;
- (c) all reasonable charges for any notice required to be given under this Act, and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouse keeper’s lien.

### Notice of lien

3.(1) Where the goods on which a lien exists were not deposited by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouse keeper shall, within two months after the date of the deposit, give written notice of the lien

- (a) to the owner of the goods, and
- (b) to every person who has registered a financing statement indexed under the name of the owner or the serial number of the goods pursuant to the Personal Property Security Act before the goods are deposited with the warehouse keeper.

(2) The notice shall contain

- (a) a brief description of the goods,
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouse keeper, and the name of the person by whom they were deposited, and
- (c) a statement that a lien is claimed by the warehouse keeper in respect of the goods under this Act.

(3) Where the warehouse keeper fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods.

**Enforcement of lien by sale of goods**

4.(1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouse keepers' charges, a warehouse keeper may sell by public auction, in the manner provided in this section, any goods upon which he has a lien for charges which have become due.

(2) The warehouse keeper shall give written notice of his intention to sell

- (a) to the person liable as debtor for the charges for which the lien exists,
- (b) to the owner of the goods,
- (c) to every person who has registered a financing statement indexed under the name of the owner or the serial number of the goods pursuant to the Personal Property Security Act before the goods are deposited with the warehouse keeper, and
- (d) to any other person known by the warehouse keeper to have or who claims an interest in the goods.

(3) The notice shall contain

- (a) a brief description of the goods,
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouse keeper and the name of the person by whom they were deposited,
- (c) an itemized statement of the warehouse keeper's charges showing the sum due at the time of the notice,
- (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than 21 days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail, and
- (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

(4) Where the charges are not paid on or before the day mentioned in the notice, and advertisement of the sale, describing the goods to be sold, stating the name of the person liable as debtor for the charges for which the lien exists and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper circulating in the locality where the sale is to be held.

(5) The sale shall be held not less than 30 days from the date of the first publication of the advertisement.

**Substantial compliance with the Act**

5. Where a notice of lien under section 3, or a notice of intention to sell under section 4 has been given, but such provisions have not been strictly complied with, if the judge before whom any question respecting the notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable to hold that the lien or sale is void by reason of such noncompliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale.

**Disposition of proceeds of sale**

6. The warehouse keeper shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any, to the person entitled thereto, and the warehouse keeper shall when paying over the surplus, deliver to the person to whom he pays it a statement of account showing how the amount has been computed.

**Payment into court**

7.(1) Where the surplus is not demanded by the person entitled thereto within ten days after the sale, or where there are different claimants or the rights thereto are uncertain, the warehouse keeper shall pay the surplus into court upon the order of a judge.

(2) The order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

(3) The warehouse keeper at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed.

**Payment of charges before sale**

8. At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouse keeper the amount necessary to satisfy his lien, including the expenses incurred in serving notices and advertisement and preparing for the sale up to the time of payment and the warehouse keeper shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouse keeper's charges thereon, but if he is not so entitled the warehouse keeper shall retain possession of the goods according to the terms of the contract of deposit.

**Manner of giving notices**

9. Where by this Act any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by mailing it in the post office, postage paid and registered, addressed to the person to whom it is to be given at his last known address.

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# CHAPTER 177

## WAREHOUSE RECEIPTS ACT

### Interpretation

#### 1. In this Act,

- “action” includes counterclaim and set-off;
- “fungible goods” means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any other unit;
- “goods” includes all chattels personal other than things in action and money;
- “holder”, as applied to a negotiable receipt, means a person who has possession of the receipt and a right of property therein and, as applied to a non-negotiable receipt, means a person named therein as the person to whom the goods are to be delivered or his transferee;
- “negotiable receipt” means a receipt in which it is stated that the goods therein specified will be delivered to bearer or to the order of a named person;
- “non-negotiable receipt” means a receipt in which it is stated that the goods therein specified will be delivered to the holder thereof;
- “purchaser” includes mortgagee and pledgee;
- “receipt” means a warehouse receipt;
- “to purchase” includes to take as mortgagee or as pledgee;
- “warehouse receipt” means an acknowledgment in writing by a warehouse keeper of the receipt for storage of goods not his own;
- “warehouse keeper” means a person who receives goods for storage for reward.

### Form and effect of receipt

#### 2.(1) A receipt shall contain the following particulars:

- (a) the location of the warehouse or other place where the goods are stored;
- (b) the name of the person by whom or on whose behalf the goods are deposited;
- (c) the date of issue of the receipt;
- (d) a statement that the goods received will be delivered to the holder thereof, or that the goods will be delivered to bearer or to the order of a named person;
- (e) the rate of storage charges;
- (f) a description of the goods or of the packages containing them;
- (g) the signature of the warehouse keeper or his authorized agent;
- (h) a statement of the amount of any advance made and of any liability incurred for which the warehouse keeper claims a lien.

(2) Where a warehouse keeper omits from a negotiable receipt any of the particulars set forth in subsection (1) he is liable for damage caused by the omission.

(3) No receipt shall by reason of the omission of any of the particulars set forth in subsection (1) be deemed not to be a warehouse receipt.

(4) A warehouse keeper may insert in a receipt, issued by him, any other term or condition

- (a) that is not contrary to this Act, and
- (b) that does not impair his obligation to exercise such care and diligence in regard to the goods as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances.

(5) Subject to this Act, a warehouse receipt issued by a warehouse keeper, when delivered to the owner or bailor of the goods or mailed to him at his address last known to the warehouse keeper, constitutes the contract between the owner or bailor and the warehouse keeper; but the owner or bailor may within 20 days after the delivery or mailing notify the warehouse keeper in writing that he does not accept the contract, and thereupon he shall remove the goods deposited subject to the warehouse keeper's lien for charges.

(6) If the owner or bailor does not notify the warehouse keeper in accordance with subsection (1), then the warehouse receipt delivered or mailed to him by the warehouse keeper under subsection (1) constitutes the contract.

#### **Limits on negotiability**

3. Words in a negotiable receipt limiting its negotiability are void.

#### **Duplicate receipts**

4.(1) No more than one receipt shall be issued in respect of the same goods except in the case of a lost or destroyed receipt, in which case the new receipt, if one is given,

- (a) shall bear the same date as the original, and
- (b) shall be plainly marked on its face "duplicate".

(2) A warehouse keeper is liable for all damage caused by his failure to observe subsection (1) to any person who purchases the subsequent receipt for valuable consideration, believing it to be an original, even though the purchase be after the delivery of the goods by the warehouse keeper to the holder of the original receipt.

(3) A receipt upon the face of which the word "duplicate" is plainly marked is a representation and warranty by the warehouse keeper that it is an accurate copy of a receipt properly issued and uncanceled at the date of the issue of the duplicate.

#### **Non-negotiable receipts**

5.(1) A warehouse keeper who issues a non-negotiable receipt shall cause to be plainly marked upon its face the words "non-negotiable" or "not negotiable".

(2) Where a warehouse keeper fails to comply with subsection (1), a holder of the receipt who purchases it for valuable consideration believing it to be negotiable may, at his option, treat the receipt as

- (a) vesting in him all rights attaching to a negotiable receipt, and
- (b) imposing upon the warehouse keeper the same liabilities he would have incurred had the receipt been negotiable,

and the warehouse keeper is liable accordingly.

**Delivery of goods**

6.(1) A warehouse keeper shall, in the absence of lawful excuse, deliver the goods referred to in a negotiable receipt to the bearer thereof upon demand made by the bearer and upon the bearer

- (a) satisfying the warehouse keeper's lien,
- (b) surrendering the receipt with such endorsements as are necessary for the negotiation of the receipt, and
- (c) acknowledging in writing the delivery of the goods.

(2) A warehouse keeper shall, in the absence of lawful excuse, deliver the goods referred to in a non-negotiable receipt to the holder thereof upon the holder

- (a) satisfying the warehouse keeper's lien, and
- (b) acknowledging in writing the delivery of the goods.

(3) Where a warehouse keeper refuses or fails to deliver the goods in compliance with subsection (1) or (2), the burden lies upon the warehouse keeper to establish the existence of a lawful excuse for his refusal or failure.

**Authority to deliver**

7. Where a person is in possession of a negotiable receipt that has been duly endorsed to him or endorsed in blank, or a negotiable receipt by the terms of which the goods are deliverable to him, to his order or to bearer, if delivery is made in good faith and without notice of any defect in the title of that person, the warehouse keeper is justified in delivering the goods to that person.

**Cancellation of receipt**

8.(1) Except as provided in section 18, where a warehouse keeper delivers goods for which he has issued a negotiable receipt and he fails to take up and cancel the receipt, he is liable, for failure to deliver the goods, to anyone who purchases the receipt in good faith and for valuable consideration, whether he acquires title to the receipt before or after delivery of the goods by the warehouse keeper.

(2) Except as provided in section 18, where a warehouse keeper delivers part of the goods for which he has issued a negotiable receipt and fails either

- (a) to take up and cancel the receipt, or
- (b) to place plainly upon it a statement of what goods or packages have been delivered,

he is liable, for failure to deliver all the goods specified in the receipt, to anyone who purchases the receipt in good faith and for valuable consideration, whether the purchaser acquires title to the receipt before or after the delivery of any portion of the goods.

**Loss of receipt**

9.(1) Where a negotiable receipt has been lost or destroyed a judge of the Supreme Court may, upon application after notice to the warehouse keeper by the person lawfully entitled to possession of the goods and upon satisfactory proof of such loss or destruction, order the delivery of the goods upon the giving of a bond with sufficient sureties to be approved in accordance with the practice of the Supreme Court to indemnify the warehouse keeper against any liability, cost or expense he may be under or be put to by reason of the original receipt remaining outstanding.

(2) The warehouse keeper is entitled to his costs of an application under subsection (1).

### **Conflicting claims to goods**

**10.** Where a warehouse keeper has information that a person other than the holder of a receipt claims to be the owner of or to be entitled to the goods, he may refuse to deliver the goods until he has had a reasonable time, not exceeding ten days,

- (a) to ascertain the validity of the adverse claim, or
- (b) to commence interpleader proceedings.

### **Effect of negotiable receipt**

**11.** A negotiable receipt is, in the hands of a holder who has purchased it for valuable consideration, conclusive evidence of the receipt by the warehouse keeper of the goods therein described as against the warehouse keeper and any person signing the same on his behalf, notwithstanding that the goods or some part thereof may not have been so received, unless the holder of the negotiable receipt has actual notice at the time of receiving the receipt, that the goods have not in fact been received.

### **Description in receipt**

**12.** Where goods are described in a receipt merely by a statement

- (a) that the goods or the packages containing them are identified by certain marks or labels,
- (b) that the goods are said by the depositor to be goods of a certain kind, or
- (c) that the packages containing the goods are said by the depositor to contain goods of a certain kind,

or by a statement of import similar to that of paragraphs (a), (b) or (c), the statement does not impose any liability on the warehouse keeper in respect of the nature, kind or quality of the goods, but shall be deemed to be a representation by the warehouse keeper

- (d) that the marks or labels were in fact on the goods or packages,
- (e) that the goods were in fact described by the depositor as stated, or
- (f) that the packages containing the goods were in fact described by the depositor as containing goods of a certain kind,

as the case may be.

### **Care of goods**

**13.** A warehouse keeper is liable for loss of or injury to goods caused by his failure to exercise such care and diligence in regard to them as a careful and vigilant owner of similar goods would exercise in the custody of them in similar circumstances.

### **Fungible goods**

**14.** Where authorized by agreement or by custom, a warehouse keeper may mingle fungible goods with other goods of the same kind and grade, and where he does so,

- (a) the holder of the receipts for the mingled goods owns the entire mass in common, and
- (b) each holder is entitled to such proportion thereof as the quantity shown by his receipt to have been deposited bears to the whole.

**Exemption from execution**

15. Where goods are delivered to a warehouse keeper by the owner or person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner, and a negotiable receipt is issued for them, they cannot thereafter while in the possession of the warehouse keeper, be levied under an execution, unless the receipt is first surrendered to the warehouse keeper.

**Lien under negotiable receipt**

16. Where a negotiable receipt is issued for goods, the warehouse keeper has no lien on the goods, except for charges for storage of those goods subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed.

**Perishable or hazardous goods**

17.(1) Where goods are of a perishable nature, or where goods by keeping will deteriorate greatly in value or injure other property, the warehouse keeper may give such notice as is reasonable and possible under the circumstances

- (a) to the holder of the receipt for the goods if the name and address of the holder is known to the warehouse keeper, or
- (b) if the holder is not known to him, to the depositor of the goods,

requiring him to satisfy the lien upon the goods, and to remove them from the warehouse.

(2) On the failure of a person to whom a notice is given under subsection (1) to satisfy the lien and remove the goods within the time specified in the notice, the warehouse keeper may sell the goods at public or private sale without advertising.

(3) The notice referred to in subsection (1) may be given by sending it by registered or certified mail addressed to the person to whom it is to be given at the person's last known place of address, and the notice shall be deemed to be given on the day following the mailing.

(4) If the warehouse keeper after a reasonable effort is unable to sell the goods, he may dispose of them in any manner he may think fit, and shall incur no liability by reason thereof.

(5) The warehouse keeper shall, from the proceeds of any sale made pursuant to this section, satisfy his lien and hold the balance in trust for the holder of the receipt.

**Effect of sale of goods**

18. Where goods have been lawfully sold to satisfy a warehouse keeper's lien, or have been lawfully sold or disposed of pursuant to section 17, the warehouse keeper is not liable for failure to deliver the goods to the holder of the receipt.

**Negotiation of receipts**

19.(1) A negotiable receipt may be negotiated by delivery where, by the terms of the receipt,

- (a) the warehouse keeper undertakes to deliver the goods to the bearer, or
- (b) the warehouse keeper undertakes to deliver the goods to the order of a named person and that person or a subsequent endorsee has endorsed it in blank or to bearer.

(2) Where by the terms of a negotiable receipt the goods are deliverable to bearer or where a negotiable receipt has been endorsed in blank or to bearer, the receipt may be negotiated by the bearer endorsing it to a named person, and in that case the receipt shall thereafter be negotiated

- (a) by the endorsement of the endorsee or a subsequent endorsee, or
- (b) by delivery, if it is again endorsed in blank or to bearer.

(3) Where, by the terms of a negotiable receipt, the goods are deliverable to the order of a named person, the receipt may be negotiated by the endorsement of that person.

(4) An endorsement pursuant to subsection (3) may be in blank, to bearer or to a named person; if the endorsement is to a named person, the receipt may be again negotiated by endorsement in blank, to bearer or to another named person; and subsequent negotiation may be made in like manner.

### **Transfer of receipts**

20. The goods covered by a non-negotiable receipt may be transferred by the holder by delivery to a purchaser or donee of the goods of a transfer in writing executed by the holder, but the transfer does not affect or bind the warehouse keeper until he is notified in writing thereof.

### **Rights on transfer**

21.(1) A person to whom the goods covered by a non-negotiable receipt is transferred acquires, as against the transferor,

- (a) the title to the goods, and
- (b) the right to deposit with the warehouse keeper the transfer or duplicate thereof or to give notice in writing to the warehouse keeper of the transfer.

(2) The transferee acquires the benefit of the obligation of the warehouse keeper to hold possession of the goods for him according to the terms of the receipt upon

- (a) deposit of the transfer of the goods, or
- (b) giving notice in writing of the transfer and upon the warehouse keeper having a reasonable opportunity of verifying the transfer.

### **Rights on negotiation**

22. A person to whom a negotiable receipt is duly negotiated acquires

- (a) such title to the goods as the person negotiating the receipt to him had or had ability to transfer to a purchaser in good faith for valuable consideration, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of receipt had or had ability to transfer to a purchaser in good faith for valuable consideration, and
- (b) the benefit of the obligation of the warehouse keeper to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouse keeper had contracted directly with him.

### **Right to endorsement**

23. Where a negotiable receipt is transferred for valuable consideration by delivery and the endorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to endorse the receipt, unless a contrary intention appears, and the negotiation takes effect as of the time when the endorsement is made.

**Warranties on sale of receipt**

24. A person who for valuable consideration negotiates or transfers a receipt by endorsement or delivery, including one who assigns for valuable consideration a claim secured by a receipt, unless a contrary intention appears, warrants

- (a) that the receipt is genuine,
- (b) that he has a legal right to negotiate or transfer it,
- (c) that he has no knowledge of any fact that would impair its validity, and
- (d) that he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied if the contract of the parties had been to transfer without a receipt the goods represented thereby.

**Endorser not guarantor**

25. The endorsement of a receipt does not make the endorser liable for any failure on the part of the warehouse keeper or previous endorsers of the receipt to fulfil their respective obligations.

**Fraud and mistake**

26. The validity of the negotiation of a receipt is not impaired by the fact that

- (a) the negotiation was a breach of duty on the part of the person making the negotiation, or
- (b) the owner of the receipt was induced by fraud, mistake or duress to entrust the possession or custody of the receipt to such person,

if the person to whom the receipt was negotiated, or a person to whom the receipt was subsequently negotiated, paid value therefor without notice of the breach of duty, or fraud, mistake or duress.

**Security interests**

27. Subject to the Personal Property Security Act, where a person having sold or created a security interest in

- (a) goods that are in a warehouse and for which a negotiable receipt has been issued, or
- (b) a negotiable receipt representing goods,

continues in possession of the negotiable receipt, the subsequent negotiation of it by that person under any sale or other disposition of it to any person receiving it in good faith for valuable consideration and without notice of the previous sale or security interest has the same effect as if a previous purchaser of the goods or receipt had expressly authorized the subsequent negotiation.

**Vendor's lien**

28. Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transit defeats the rights of a purchaser for value in good faith to whom the receipt has been negotiated, whether the negotiation be prior or subsequent to the notification to the warehouse keeper who issued the receipt of the seller's claim to a lien or right of stoppage in transit, and the warehouse keeper shall not deliver the goods to an unpaid seller unless the receipt is first surrendered for cancellation.





# CHAPTER 178

## WILDLIFE ACT

### Interpretation

1.(1) In this Act,

- “big game animal” means a moose, caribou, mountain sheep, mountain goat, bear, wolf, coyote, or any other animal of a species or type declared by the regulations to be a big game animal;
- “carcass” includes all of the parts of the dead body of an animal, including the head, antlers, limbs, claws, offal, feathers, fur and hide;
- “certificate” means a certificate issued under this Act;
- “concession” means a concession granted under this Act;
- “firearm” includes any device that propels a projectile by means of an explosion, compressed gas, springs or strings and, without limiting the generality of the foregoing, includes a rifle, shotgun, handgun, spring gun, longbow or crossbow;
- “fur bearing animal” means a beaver, weasel, fisher, fox, otter, marten, mink, muskrat, squirrel, wolverine, lynx or any other animal of a species or type declared by the regulations to be a fur bearing animal;
- “game bird” means a bird of any of the species of the following groups: Anseriformes, commonly known as ducks, geese and swans; Gruiformes, commonly known as cranes, rails and coots; Charadriiformes, commonly known as plovers, turnstones, snipe, sandpipers, curlews, yellowlegs, knots, dowitchers, godwits, sanderlings and phalaropes; Galliformes, commonly known as grouse, partridge, ptarmigan, prairie chicken and pheasants or any other bird of a species or type declared by the regulations to be a game bird;
- “guide” means a person who is authorized under this Act to act as a guide notwithstanding subsection 43(1);
- “habitat” means the soil, water, food, vegetation and other components of the natural environment that are necessary to sustain wildlife;
- “hunting” means the doing of any of the following acts by an armed person, whether or not any wildlife is then or subsequently killed, taken or wounded: chasing, driving, flushing, attracting, pursuing, worrying, following after, searching for, trapping, attempting to trap, taking, attempting to take, capturing, attempting to capture, shooting at, killing, lying in wait for or stalking any wildlife;
- “Indian” means a person who is defined as such in the Indian Act (Canada), and includes the Indian wife of a man other than an Indian who has been deserted by or divorced from that man or who has become the widow of that person;
- “licence” means a licence issued under this Act;
- “outfitter” means a person who holds an outfitter’s certificate under this Act;
- “outfitting area” means an area in respect of which an outfitting concession has been granted;
- “permit” means a permit issued under this Act;
- “private land” means land in respect of which a certificate of title has been issued under the Land Titles Act (Canada) and includes land held under a residential, industrial, commercial, agricultural or recreational lease from the Crown;

“resident” means

- (a) a Canadian citizen who has habitually resided in the Yukon for one year immediately prior to the time that his residence becomes material under this Act,
- (b) a Canadian citizen who has resided in the Yukon for 60 days immediately prior to the time that his residence becomes material under this Act if he has at any time habitually resided in the Yukon for a period of one year, or
- (c) a landed immigrant or a person other than a Canadian citizen who has habitually resided in the Yukon for three years immediately prior to the time that his residence becomes material under this Act;

“specially protected wildlife” means an elk, musk ox, deer, cougar, gyrfalcon, peregrine falcon, trumpeter swan or any other wildlife of a species or type declared by the regulations to be specially protected wildlife;

“species” includes subspecies;

“trap” includes every contrivance used or designed to be used for trapping animals;

“trapping area” means an area in respect of which a trapping concession has been granted;

“type” includes age, sex, conformation and phenotype;

“vacant” means empty or devoid of occupants;

“vehicle” includes an aircraft but does not include a boat;

“wildlife” means a vertebrate animal of any species or type that is wild by nature in the Yukon, but does not include fish;

“wildlife technician” includes wildlife biologist.

(2) Where a period of time is expressed under this Act to be a period from one day to another, the period shall be reckoned inclusively of both the first and last days.

### **Indians and Eskimos**

2. Nothing in this Act shall be construed as prohibiting Indians or Eskimos from hunting for food, on unoccupied Crown land, wildlife other than wildlife declared by the Governor in Council to be wildlife in danger of becoming extinct.

### **Migratory birds**

3. This Act is subject to the Migratory Birds Convention Act (Canada).

## **PART 1**

### **DUTIES AND PROHIBITIONS**

#### **Exceptions, licences and permits**

4. The duties and prohibitions in this Part are subject to the provisions of Part 2 and Part 4.

### **DANGEROUS HUNTING**

#### **Danger to persons**

5.(1) No person shall hunt in a manner that is dangerous to any person.

(2) A person shall be deemed to hunt in a manner that is dangerous under subsection (1) where

- (a) he hunts without due regard for the safety of other persons,
- (b) he hunts with a firearm that is in an unsafe condition,
- (c) he hunts while his ability to do so is impaired by alcohol, or by a narcotic within the meaning of the Narcotic Control Act (Canada),
- (d) he discharges a firearm in the dark, or
- (e) he discharges a firearm on or across the travelled portion of a road that is normally used by the public,

whether or not the safety of any person actually is endangered.

### **Danger to property**

6. No person shall hunt in a manner that causes or is likely to cause damage to crops, livestock, domestic animals or other personal property.

### **Hunting by children**

7. No person who is the parent or guardian of a child under the age of 16 years shall permit him to hunt any species or type of wildlife unless the child is accompanied by a person of the age of 19 or more years who is the holder of a valid licence authorizing the holder to hunt that species or type of wildlife.

### **Firearms in vehicles**

8.(1) No person shall carry a loaded firearm in or on a vehicle.

(2) For the purposes of subsection (1), a cartridge-loading firearm shall be deemed to be loaded when a live shell or cartridge is in the breech or chamber of the firearm, and a muzzle-loading firearm shall be deemed to be loaded when gun powder and a projectile are in the chamber of the firearm and an ignition device is in place on the firearm.

(3) A person who discharges a firearm from a vehicle shall be deemed to have carried a loaded firearm in or on the vehicle.

### **Hunting near dwellings**

9.(1) No person shall hunt wildlife within one kilometre of an occupied dwelling on private land unless he has the permission of the occupant to do so.

(2) In a prosecution under subsection (1), the onus is on the accused to prove that he had the permission of the occupant to hunt within one kilometre of the dwelling.

## **UNAUTHORIZED HUNTING**

### **General prohibition**

10. The hunting of wildlife is prohibited except insofar as it is permitted under this Act.

### **Permission to hunt**

11.(1) No person shall at any time hunt a species or type of wildlife in an area of the Yukon unless the hunting by him of that species or type of wildlife at that time in that area is permitted under this Act.

(2) No person shall hunt specially protected wildlife.

**Bag limits**

12.(1) No person shall within any period of time take or kill a greater number of wildlife of a particular species or type than is permitted under this Act for that period of time for that species or type.

(2) No person shall within any period of time hunt wildlife of a particular species or type after he has, in that period of time, taken or killed the maximum number of wildlife of that species or type that he is permitted to take or kill under this Act in that period of time.

**Employment of hunters**

13.(1) No person shall employ or offer to employ another person to kill or capture wildlife, or to take any egg or nest of a bird that is wild by nature.

(2) No person shall enter into or offer to enter into a contract with another person to kill or capture wildlife, or to take any egg or nest of a bird that is wild by nature.

(3) Subsections (1) and (2) do not apply to the abatement of nuisances on private land caused by birds other than game birds, or caused by such other species or types of wildlife as may be prescribed.

**HUNTING METHODS**

**Permitted weapons**

14. No person shall hunt any species or type of wildlife otherwise than by the use of such weapons, traps or other devices as may be prescribed for the killing or capturing of that species or type of wildlife.

**Use of vehicles**

15. No person shall, for the purpose of hunting, chase, drive, flush, pursue, worry or harass any wildlife from a vehicle, whether he does so for himself or to assist another person.

**Use of bait**

16. No person shall use bait for hunting big game animals other than wolves or coyotes.

**Use of lights**

17. No person shall use lighting or reflecting equipment for the purpose of hunting wildlife.

**Use of aircraft**

18.(1) No person shall hunt wildlife from or by means of an aircraft.

(2) A person shall be deemed to be hunting wildlife by means of an aircraft where he locates wildlife from an aircraft in flight and

- (a) he communicates its location or approximate location by any signal to any person on the ground or in a vehicle for the purpose of hunting it, or
- (b) he hunts it within 48 hours after he locates it.

(3) No person shall hunt big game within six hours of his disembarkation from an aircraft other than an aircraft on a regularly scheduled flight.

#### **Use of helicopters**

19.(1) No person shall transport by helicopter

- (a) any big game hunter, or
- (b) any part of the carcass of any big game animal.

(2) Notwithstanding subsection (1), a big game hunter may be transported by helicopter for the purpose of providing him with medical aid or rescuing him.

(3) No person shall transport any vehicle by helicopter for the purpose of hunting.

#### **Use of poison and drugs**

20.(1) No person shall use poison for hunting wildlife.

(2) No person shall use drugs for hunting wildlife.

(3) A person shall be deemed to use poison or drugs, as the case may be, for hunting wildlife where

- (a) he uses poison or drugs for any purpose in a manner that is likely to result in the capture or death of wildlife, or
- (b) he has in his possession, while he is hunting, poison or drugs that are commonly used for capturing or killing any wildlife.

### **CARCASSES AND LIVE ANIMALS**

#### **Possession limits**

21.(1) No person shall have in his possession a greater number of carcasses of a species or type of wildlife, or parts of such carcasses, than he is permitted to possess under this Act.

(2) No person shall have in his possession any part of the carcass of any wildlife he has come upon unexpectedly or discovered by chance.

#### **Illegal and specially protected wildlife**

22.(1) No person shall have in his possession any wildlife or any part of the carcass of any wildlife captured, taken or killed in contravention of this Act.

(2) No person shall have possession of any animal that is wild by nature outside the Yukon, or any part of the carcass of such an animal, taken or killed in contravention of the laws of the place where the animal was taken or killed.

(3) No person shall have in his possession any specially protected wildlife or any part of the carcass of any specially protected wildlife.

#### **Waste of meat**

23.(1) No person who has possession of the carcass of a game bird or big game animal other than a wolf, bear or coyote shall allow any of the meat to be wasted.

(2) For the purposes of subsection (1), “meat” does not include the hide, head or viscera of the bird or animal.

(3) A person shall be deemed to have allowed an edible part of a carcass to be wasted where he allows any portion of it that is reasonably suitable for human consumption

- (a) to be fed to dogs or other domestic animals, or to captive wildlife,
- (b) to be destroyed or to become spoiled,
- (c) to be abandoned, or
- (d) to be used for bait.

(4) This section applies to a person who kills wildlife under section 60, 64 or 65.

**Wounding**

24. Every person who wounds wildlife shall make a reasonable effort to kill it.

**Retrieval**

25. Every person who has killed a game bird or big game animal shall make a reasonable effort to retrieve the carcass.

**Waste of pelt**

26.(1) No person who has killed a fur bearing animal, wolf, coyote or bear shall allow any part of the pelt to be wasted.

(2) A person shall be deemed to have allowed part of a pelt to be wasted where

- (a) he allows it to be destroyed or to become spoiled, or
- (b) he abandons it.

**Sale of wildlife**

27.(1) No person shall buy or sell, or offer to buy or sell, or keep for the purpose of sale, any wildlife or any part of the carcass of any wildlife.

(2) A person does not violate subsection (1) where

- (a) he sells any wildlife to any person who is the holder of a permit to buy it issued under subsection 81(2), or
- (b) he buys any wildlife from any person who is the holder of a licence or permit to sell it issued under section 81.

(3) No person shall serve any part of the carcass of any wildlife as food at any place where meals are served for or in the hope or expectation of remuneration, or as part of the remuneration of a person employed at that place.

(4) No person shall bring any edible part of the carcass of any wildlife into, or possess it in, any place where meals are served for or in the hope or expectation of remuneration, or as part of the remuneration of a person employed at the place.

**Live animals**

28.(1) No person shall capture alive or have possession of any live wildlife.

(2) No person shall import into the Yukon any live animal that is wild by nature.

(3) No person shall release into the wild any animal the importation of which into the Yukon is prohibited under subsection (2).

#### **Capture of birds**

**29.** No person shall have in his possession any decoy, appliance or materials of any kind commonly used for the live capture of birds that are wild by nature.

#### **Export of wildlife**

**30.** No person shall ship or remove any wildlife or any part of the carcass of any wildlife from the Yukon.

#### **Transport of illegal wildlife**

**31.** No person shall ship or transport, or deliver to another person for shipping or transportation, any wildlife or any part of the carcass of any wildlife taken or killed in contravention of this Act.

### **TRAPPING**

#### **Prohibitions and duty to check traps**

**32.(1)** No person shall at any time set or reset a trap in an area of the Yukon unless the setting of the trap by him at that time in that area is permitted under this Act.

(2) Where a person sets or resets a trap, he shall check it at the prescribed intervals.

(3) No person shall at any time set a trap on the travelled portion of a road that is normally used by the public.

#### **Removal of traps**

**33.** Where a person who is authorized to hunt fur bearing animals in an area discovers any traps within the area, he may remove them, but if he does so he shall deliver them to a conservation officer as soon as it is practicable for him to do so.

#### **Interference with traps**

**34.(1)** No person shall intentionally remove, molest, spring or in any way interfere with a trap lawfully set by another person for trapping wildlife.

(2) Any person may spring any trap unlawfully set for the trapping of wildlife.

### **HABITAT PROTECTION**

#### **Protected areas**

**35.** No person shall destroy or damage habitat in an area on Crown lands declared by regulations under section 179 to be a protected habitat area.

#### **Beaver dams and wildlife dens and nests**

**36.(1)** No person shall damage or interfere with a beaver dam, or the den, lair or nest of any wildlife.

(2) A wildlife technician or conservation officer may in writing authorize a person to damage or interfere with a beaver dam, or the den, lair or nest of any wildlife, subject to such conditions as the technician or officer considers advisable.

(3) No person shall take, possess, damage or interfere with an egg of any bird that is wild by nature.

(4) This section does not apply to private land.

(5) A person does not violate this section where he damages or interferes with a den, lair or nest in the course of clearing or working land for building or road construction, for agricultural use, or for any similar purpose.

(6) A person may open a muskrat house for the purpose of setting traps in it if

- (a) he takes reasonable care to prevent the subsequent freezing of the muskrat house, and
- (b) he is otherwise authorized under this Act to set the traps.

### **Harassment of wildlife**

37.(1) No person shall harass or provoke any wildlife.

(2) A person shall be deemed to harass or provoke wildlife where

- (a) he captures, handles or manipulates wildlife, or attempts to do so,
- (b) he is the owner of a dog or he has a dog in his charge and he allows the dog to run after or molest a big game animal or a fur bearing animal,
- (c) he operates a vehicle or boat in a manner that might reasonably be expected to harass any wildlife, or
- (d) he attempts to interfere with the movement of any wildlife across any road or watercourse.

(3) A person shall not be deemed to harass or provoke wildlife where

- (a) he hunts wildlife from a boat,
- (b) he operates a farm implement for harvesting, cultivation, clearing land or a similar agricultural purpose,
- (c) he captures wildlife accidentally and releases it, or
- (d) he attempts to assist wildlife in distress.

### **Creating a nuisance and feeding bears**

38.(1) No person shall encourage any wildlife to become a public nuisance.

(2) Subject to subsection (3), a person shall be deemed to have encouraged a bear to become a public nuisance where he feeds it or he leaves food or garbage in a place where a bear may have access to it and he does not take reasonable precautions to prevent bears from having access to it or being attracted to the area by it.

(3) A person does not violate this section by leaving food or garbage

- (a) in a municipal garbage dump,
- (b) in a container provided for garbage disposal in any campground,



- (c) in a garbage dump established by the Government of the Yukon or established under the Territorial Lands Act (Canada),
- (d) in a roadside litter barrel, or
- (e) in any other place designated in the regulations.

## **HUNTING EXPEDITIONS AND OUTFITTING**

### **Outfitting business**

**39.(1)** No person who is not an outfitter shall carry on an outfitting business.

(2) A person shall be deemed to be carrying on an outfitting business where, otherwise than by way of bona fide sale, he provides to any non-resident, for use in the hunting of big game, any horse, vehicle, boat, camping equipment, hunting equipment, transportation service, guiding service, or any other equipment or service ordinarily provided by outfitters to non-resident hunters.

### **Outfitting areas**

**40.(1)** No outfitter shall outfit any non-resident hunter for the hunting of big game in any area in relation to which the outfitter is not authorized to outfit under section 105 or 107.

(2) This section does not apply to a person acting as a guide under the authority of a special guiding licence issued under subsection 152(2).

### **Non-resident hunters**

**41.** No person who is not a resident of the Yukon shall hunt big game unless

- (a) he is outfitted by an outfitter and accompanied by a guide, or
- (b) he is accompanied by the holder of a special guiding licence issued under subsection 152(2).

### **Guide required**

**42.** For each non-resident outfitted by an outfitter, the outfitter shall provide a separate guide to accompany the non-resident while he is hunting big game animals.

### **Guiding activities**

**43.(1)** No person shall

- (a) accompany any person in the field, for compensation or reward, to assist the person in hunting any big game animal, or
- (b) accompany any non-resident in the field to assist the non-resident in hunting any big game animal.

(2) While a person is accompanying another person in the field as referred to in subsection (1), he shall be deemed to be acting as a guide for the person he accompanies.

### **Hunter must have licence**

**44.** No guide shall accompany a person in the field while the person is hunting for any species or type of big game animal unless the person has produced for the inspection of the guide a valid licence authorizing him to hunt for that species or type of big game animal.

**Duties of guide**

45.(1) No guide shall shoot at or near wildlife while he is acting as a guide.

(2) A person acting as a guide for another person has a reasonable responsibility

- (a) for the safety and well-being of the other person, and
- (b) for the care and preservation of the carcass of any wildlife killed by the other person.

(3) Subsection (1) and paragraph (2)(a) do not apply to a person acting as a guide under the authority of a special guiding licence issued under subsection 152(2).

(4) Notwithstanding subsection (1), a guide may, with the permission of the person for whom he is acting as a guide, shoot at a big game animal wounded by that person.

**Prevention of violations**

46. If he can do so without using force, every guide shall prevent any person for whom he is acting as a guide from violating this Act.

**Report by guide**

47.(1) Where a violation of this Act is committed by a person while he is accompanied by a guide provided by an outfitter, the guide shall mark the site and report the violation forthwith to the outfitter or to a conservation officer.

(2) Where a violation of this Act is committed by a person while he is accompanied by a guide under the authority of a special guiding licence issued under subsection 152(2), the guide shall mark the site and report the violation forthwith to a conservation officer.

(3) A guide shall include in his report under subsection (1) or (2) sufficient particulars to identify the place where the offence was committed and he shall, on request, furnish to a conservation officer such information relating to the violation as the officer reasonably may require.

**Report by outfitter**

48. Where a violation of this Act is committed by a guide in the employ of an outfitter, or by the client of an outfitter, the outfitter shall report the violation to a conservation officer as soon as practicable and in any event within 48 hours after he learns of the violation and he shall, on request, furnish to a conservation officer such information relating to the violation as the officer reasonably may require.

**MISCELLANEOUS****Transfer of licences, permits and certificates**

49.(1) No person to whom a licence, permit or certificate has been issued shall deliver it to another person in circumstances where he might reasonably expect that the other person would

- (a) purport to a conservation officer to be the holder of the licence, permit or certificate, or
- (b) purport to exercise the authority, rights or privileges granted by the licence, permit or certificate.

(2) No person who is in possession of any licence, permit or certificate issued to another person shall purport to a conservation officer to be the holder of the licence, permit or certificate.

#### **Production of licences, permits and certificates**

50. Where a person is the holder of a licence, permit or certificate, or purports to be doing anything under the authority of a licence, permit or certificate, he shall show it to a conservation officer upon request.

#### **False statements**

51. No person shall make a false statement in any return or application under this Act.

#### **Non-residents**

52. No person who is not a resident shall obtain a licence or permit that may be issued only to residents under this Act.

#### **Compliance with conditions**

53. Every person to whom a licence, permit or certificate is issued shall comply with any conditions to which it is subject under this Act.

#### **Damage to signs**

54. No person shall destroy, tear down, deface or damage any poster, notice or sign that has been posted up or erected under this Act.

#### **Stopping of vehicles**

55.(1) Where a person is operating or in charge of a vehicle or boat, he shall forthwith bring the vehicle or boat to a stop upon being ordered or signalled to do so by a conservation officer, and where the conservation officer has reasonable and probable grounds to believe and does believe that the person has committed an offence under this Act, the person shall give to the conservation officer, upon request, his name and address.

(2) An order to stop under subsection (1) may be made by means of a sign or flashing red light.

#### **Production of firearms**

56. Every person shall, upon request of a conservation officer, promptly produce for the inspection of the officer any firearm that is

- (a) in the possession of the person, or
- (b) subject to his control

outside the dwelling in which he habitually resides.

#### **Obstruction of officer**

57. No person shall obstruct or interfere with a conservation officer or wildlife technician in the performance of his duties under this Act.

#### **Counselling violation**

58. No person shall counsel, procure or incite another person to commit an offence under this Act.

**Interfering with hunters**

**59.**(1) No person shall interfere intentionally with the hunting of any wildlife by a person who is authorized to hunt the wildlife under this Act.

(2) Where it is proved that a person has interfered with the hunting of any wildlife by a person who is authorized to hunt the wildlife under this Act and it is proved that the person who interfered with the hunting made a public statement in the Yukon or elsewhere within six months before the interference that he intended to interfere with the hunting of wildlife in the Yukon, the onus is on him to prove that he did not intend to interfere with the hunting of wildlife on the occasion in respect of which he is alleged to have done so.

**Accidents involving wildlife**

**60.**(1) Every person who kills a big game animal, lynx, fox, wolverine, raptor or specially protected wildlife accidentally or otherwise without having permission to do so under this Act shall, as soon as practicable after killing it,

- (a) report to a conservation officer the number and species or type of wildlife killed, and particulars of the accident or killing, and
- (b) furnish such other information as may be required by the regulations or as reasonably may be required by the conservation officer.

(2) The Executive Council Member may, within 24 hours after a report is received under subsection (1), require delivery of all or part of the carcass to a conservation officer to be disposed of in accordance with the instructions of the Executive Council Member.

(3) A person who delivers all or part of a carcass to a conservation officer under subsection (2) may apply to the Executive Council Member for its return.

## **PART 2**

### **GENERAL EXCEPTIONS**

**Part 2 prevails over Part 1**

**61.** The provisions of this Part apply notwithstanding any provision of Part 1.

**Imported wildlife**

**62.**(1) A person may possess in the Yukon any part of the carcass of any wildlife lawfully obtained by him outside the Yukon.

(2) Subject to sections 22 and 27, a person may possess any part of the carcass of any wildlife where

- (a) it is lawfully killed by him,
- (b) he receives it directly or indirectly as a gift from the person who killed it, or
- (c) it is held by him as bailee for a person entitled to possess it.

(3) Subject to sections 22 and 27, a person may possess any part of the carcass of any wildlife referred to in subsection 21(2) for such period of time as reasonably may be necessary for him to apply for a permit to possess it under Part 4 or to deliver it to a conservation officer.

**Emergency hunting**

63.(1) A person may hunt any wildlife where it is reasonably necessary for him to do so to prevent the loss of his own life or the life of another person through starvation.

(2) Every person shall take reasonable precautions to ensure that it does not become necessary, in order to prevent the loss of his own life through starvation, for him or any other person to hunt wildlife that he or the other person is not authorized to hunt under the provisions of this Act other than this section.

(3) This section applies with the necessary changes to the taking of the eggs of birds that are wild by nature.

**Defence of life**

64.(1) Subject to subsection (2), a person may kill wildlife in defence of his life or the life of another person where

- (a) there is imminent or immediate threat of grievous bodily harm, and
- (b) all other practical means of averting the threat of harm have been exhausted.

(2) Subsection (1) does not authorize the killing of any bird or any herbivore other than a moose.

**Defence of property**

65.(1) Subject to subsection (2), a person may kill wildlife in defence of property where

- (a) there is imminent or immediate threat of irrecoverable and substantial damage to property, and
- (b) all other practical means of averting the threat of damage have been exhausted.

(2) Subsection (1) does not authorize the killing of any herbivore or bird.

**Report of emergency killing**

66.(1) Where a person kills any big game animal, lynx, fox, wolverine or specially protected wildlife under section 63, 64 or 65 and he is not authorized to kill the animal under a provision of this Act other than those sections, he shall as soon as practicable after killing the animal report to a conservation officer the number and species or types of animals killed, and furnish such other information as reasonably may be required by the conservation officer.

(2) The Executive Council Member may, within 24 hours after a report is received under subsection (1), require delivery of all or part of the carcass to a conservation officer to be disposed of in accordance with the instructions of the Executive Council Member.

(3) A person who delivers all or part of a carcass to a conservation officer under subsection (2) may apply to the Executive Council Member for its return.

## **PART 3**

### **ENFORCEMENT AND PROSECUTIONS**

#### **Time for prosecutions**

67. No proceedings under this Act shall be commenced more than one year after the time when the subject matter of the proceedings arose.

#### **Territorial Court**

68. Offences referred to in subsection 141(1) or (3) shall be tried in the Territorial Court.

### **OFFENCES**

#### **Offence**

69. Every person who violates a provision of this Act or the regulations commits an offence.

#### **Continuing violation**

70.(1) Where a violation of this Act by a person continues for more than one day, the person shall be deemed to commit a separate offence for each day the violation continues after the person has been served with a ticket under the Summary Convictions Act containing a statement to the effect that a continuation of the violation may constitute a separate offence for each day the violation continues.

(2) A ticket under subsection (1) shall be deemed to commence proceedings in respect of all offences deemed to be committed by the person.

#### **Separate offences**

71. A violation of this Act constitutes a separate offence in respect of each specimen of wildlife that is the subject of the violation.

#### **Parties to offences**

72. Every person is a party to an offence under this Act who actually commits the offence, who does or omits to do anything for the purpose of aiding any person to commit the offence, or who abets any person in committing the offence.

### **POSSESSION**

#### **Wildlife in vehicles**

73. Where any wildlife or any part of any wildlife is found in a vehicle or boat it shall be deemed, in the absence of evidence to the contrary, to be in the possession of the operator of the vehicle or boat, and if the identity of the operator is not proved, it shall be deemed to be in the possession of the registered owner or other person lawfully entitled to the use and possession of the vehicle or boat.

#### **Possession defined**

74.(1) For the purposes of this Act, a person has anything in his possession when he has it in his personal possession or knowingly

- (a) has it in the actual possession or custody of another person, or

- (b) has it in any place, whether or not the place belongs to or is occupied by him, for the use or benefit of himself or another person.

(2) For the purposes of this Act, where one of two or more persons, with the knowledge and consent of the rest, has anything in his custody or possession, it shall be deemed to be in the custody and possession of each and all of them.

## **PROOF**

### **Proof of official documents**

**75.(1)** In a prosecution under this Act or in any other proceeding in which proof is required

- (a) as to the issuance, suspension or cancellation of a licence, permit or certificate,
- (b) as to the granting, suspension or revocation of a concession,
- (c) as to whether or not a person is a holder of a licence, permit, certificate or concession, or
- (d) as to the delivery, service, mailing or giving of any notice by the Executive Council Member,

a statement signed by the Executive Council Member certifying thereto is admissible in evidence as prima facie proof of the facts stated in the statement and is conclusive proof of the authority of the Executive Council Member without proof of his appointment or signature.

(2) In a prosecution or any other proceeding under this Act, a statement signed by the person in charge of any laboratory or meteorology station maintained by a university, by the Government of the Yukon, by the Government of Canada, or by the government of another province, or signed by the assistant or a person acting in the place of the person so in charge, is admissible in evidence as prima facie proof of the facts stated in it and is conclusive proof of the authority of the person signing the statement without proof of his appointment or signature.

(3) The fact that the person charged with the commission of an offence under this Act has the same name as the person referred to in a statement issued under subsection (1) as being the holder of a licence, permit, certificate or concession, is prima facie proof that the person so charged is the holder.

### **Proof of exception**

**76.** In any prosecution under this Act, the burden of proving that an exception, exemption, excuse or qualification under this Act operates in favour of the accused is on the accused, and the prosecutor is not required, except by way of rebuttal, to prove that the exception, exemption, excuse or qualification does not operate in favour of the accused, whether or not it is set out in the information or ticket commencing the proceedings.

### **Proof of residence**

**77.** In any prosecution under this Act, the burden is on the accused to prove that he is a resident of the Yukon.

### **Proof of place of killing**

**78.(1)** In any prosecution under this Act, any wildlife found dead in the Yukon shall be presumed, in the absence of evidence to the contrary, to have been killed in the Yukon.

(2) Where a person is in possession of any wildlife or any part of the carcass of any wildlife within an area established as a wildlife sanctuary under section 140, he shall be deemed, in the absence of evidence to the contrary, to have hunted wildlife within that area.

**Contents of information or ticket**

**79.** No exception, exemption, excuse or qualification under this Act is required to be set out or negated as the case may be in any information or ticket commencing proceedings in respect of an offence under this Act.

**Defect in form**

**80.** A conviction or order made in any matter arising under this Act, either originally or on appeal, shall not be quashed for any defect in form.

## PART 4

### LICENCES, PERMITS CERTIFICATES AND CONCESSIONS

**Licences and permits**

**81.(1)** A licence may be issued in accordance with the regulations

- (a) to give a person permission to hunt wildlife for the purposes of subsection 11(1),
- (b) to authorize a person to act as a guide,
- (c) to authorize a person to sell any wildlife or any part of the carcass of wildlife, notwithstanding section 27, or
- (d) to give a person permission to trap wildlife for the purposes of section 32.

(2) A permit may be issued in accordance with the regulations

- (a) to give a person permission to hunt wildlife for the purposes of section 11, or
- (b) notwithstanding Part 1, to authorize a person to do any act the doing of which is prohibited under sections 12 to 38, 41, 42 and 45, except subsections 21(1) and 34(1).

**Form and extent of permission in licence or permit**

**82.(1)** Except as provided in subsection 36(2), no permission given to a person to do any act that is prohibited in Part 1 is effective unless the permission is given in the form of a licence, permit or certificate.

(2) No licence, permit or certificate authorizes a person to do any act the doing of which is prohibited under Part 1, except insofar as

- (a) the authorization is expressed under this Act as an authorization to all persons to whom a licence, permit or certificate of that type or class is issued, or
- (b) the authorization is expressed on the licence, permit or certificate.

(3) No licence authorizes a person to hunt within an area established as a wildlife sanctuary under section 140, or to hunt specially protected wildlife.



**Conditions to permission**

**83.** Where a licence, permit or certificate is issued to authorize a person to do any act the doing of which is prohibited under Part 1, the licence, permit or certificate may, in accordance with the regulations, make the authorization subject to conditions, whether the authorization is expressed in the regulations or on the licence, permit or certificate.

**No transfer of licence or permit**

**84.(1)** The authority, rights or privileges granted by the issuance of a licence or permit to a person to do any act the doing of which is prohibited under Part 1 is a personal right that is not transferrable to any other person.

(2) Subject to subsection 175(3), no licence or permit shall be issued to any corporation, society or other body that is not a natural person.

**False application**

**85.** A licence, permit or certificate issued, or a concession granted, to a person who has made a false statement in his application for the licence, permit, certificate or concession is not valid unless the statement relates only to some matter that reasonably could not have influenced the decision to issue the licence, permit or certificate, or to grant the concession to the holder.

**Title to land and wildlife**

**86.(1)** A licence, permit, certificate or concession is not, and does not operate as, a demise, lease or transfer of any title or interest in or to land or wildlife.

(2) Subsection (1) does not affect any rights or remedies a person has at common law or by statute against any person other than the Crown for damages suffered as a result of interference with his outfitting or trapping operations.

**ISSUANCE****Licence issuers**

**87.(1)** A person may be authorized in writing to issue licences or permits, but the authority given to a person under this subsection is subject to such conditions as may be prescribed.

(2) A person who is authorized under subsection (1) to issue licences or permits and who is not a member of the public service shall be paid the prescribed remuneration for each licence or permit issued by him.

(3) Every person who issues a licence or permit under this section is deemed to be an agent of the Crown for the collection of any fee required to be paid in respect of the issuance of the licence or permit, and sections 64 to 72 of the Financial Administration Act apply in respect of the fees collected by the person.

**Refusal to issue, cancellation and reinstatement**

**88.(1)** The Executive Council Member may refuse to issue a licence, permit or certificate for any cause that seems sufficient to him.

(2) The Executive Council Member may cancel or suspend any licence or permit for any cause that seems sufficient to him.

(3) Where the Executive Council Member cancels or suspends a licence, permit or certificate, he may reinstate it upon such conditions, if any, as he deems advisable.

## OUTFITTING AND TRAPPING CONCESSIONS

### Grant of outfitting concession

89. An outfitting concession may be granted to a natural person who is a resident who makes his home in the Yukon, habitually is present in the Yukon and is a Canadian citizen.

### Grant of trapping concession

90.(1) A trapping concession may be granted to any person who has the qualifications prescribed under section 155, is a Canadian citizen, and has, for the three years immediately preceding the date of his application for the concession, habitually resided

- (a) in the Yukon, or
- (b) elsewhere in Canada within 150 kilometres of the trapping area in respect of which he is applying for a trapping concession.

(2) A trapping concession shall not be granted to a person under paragraph (1)(b) unless he is a person designated by name in the regulations as a member of a class of non-residents to whom trapping concessions may be granted.

(3) A trapping concession may be granted to a partnership of natural persons, as an undivided joint interest, if each of them is qualified under this section.

(4) A trapping concession may be granted to a society registered under the Societies Act if all of its members are qualified under this section.

### Refusal and term of concession

91.(1) The Executive Council Member may refuse to grant a concession for any cause that seems sufficient to him, but he shall not do so until the application has been referred to the Concession and Compensation Review Board established under section 168 and the board has had 30 days to make a recommendation.

(2) The term for which a concession may be granted is five years at a time, except as provided in section 92.

### Initial term and renewal of concession

92.(1) An outfitting or trapping concession granted to a person who has not previously held an outfitting or trapping concession, as the case may be, expires on March 31 next following the date of issue, unless it is cancelled before its natural expiration.

(2) To be eligible for renewal in priority to other applicants, the holder of a concession to which subsection (1) applies shall apply for a renewal of the concession within 30 days before its natural expiration.

- (3) Upon the receipt of an application under subsection (2),
- (a) the concession granted under subsection (1) may be renewed for one year, in which case this section continues to apply to the renewal of the concession, or
  - (b) a new concession may be granted to the applicant for the full term of five years, in which case section 94 applies to the renewal of the concession.

### **Renewal of concession**

**93.** A concession granted to a person who has not previously held the same kind of concession shall not be renewed more than once under paragraph 92(3)(a).

### **Renewal after full grant**

**94.(1)** To be eligible for renewal in priority to other applicants, the holder of a concession granted or renewed for a term of five years shall apply for a renewal of the concession within 90 days before its natural expiration.

(2) Upon the receipt of an application under subsection (1), the concession may be renewed for another term of five years.

(3) For the purpose of determining the expiry date of a concession granted or renewed for a term of five years, the concession shall be deemed to be granted or renewed on April 1 of the year in which the grant or renewal is made.

(4) Ninety days notice of the expiration of a concession granted or renewed for a term of five years shall be given by registered or certified mail addressed to the holder of the concession at the address given on his most recent application for a grant or renewal of the concession or any other address of which he has given the Executive Council Member written notice.

### **Refusal to renew**

**95.(1)** The renewal of a concession may be refused in whole or in part where

- (a) the applicant has failed to comply with this Act or the regulations in the operation of the concession,
- (b) the Executive Council Member is of the opinion that it is necessary for the conservation of wildlife in all or part of the outfitting or trapping area not to renew the concession, and not to grant a new concession for all or part of the area, or
- (c) the Executive Council Member is of the opinion that it is necessary for the protection of the public interest not to renew the concession, and not to grant a new concession for all or part of the outfitting or trapping area.

(2) Except as provided by subsections 101(3) and 103(3), no compensation is payable for the non-renewal of a concession in whole or in part for any reason.

(3) The renewal of a concession shall not be refused in whole or in part under subsection (1) until the application for renewal has been referred to the Concession and Compensation Review Board established under section 168 and the board has had 30 days to make a recommendation.

(4) Notwithstanding any other provision of this Act, no compensation is payable for the revocation, suspension or non-renewal of

- (a) a concession granted to a person who has not previously held a concession of the same kind, or
- (b) a concession renewed under paragraph 92(3)(a),  
and no reference to the h Concession and Compensation Review Board established under section 168 is required in respect of the revocation, suspension or non-renewal of such a concession.

### **Outfitting and trapping areas**

96.(1) No outfitting concession shall be granted in respect of all or part of the outfitting area described in a concession granted previously and still in effect.

(2) No trapping concession shall be granted in respect of all or part of the area described in a trapping concession issued previously and still in effect.

### **Right to outfit and trap**

97.(1) An outfitting concession reserves from all persons other than the holder of the concession any authority to outfit non-residents for the hunting of big game animals in the outfitting area described in the concession.

(2) A trapping concession reserves from all persons other than the holder of the concession any authority to hunt fur bearing animals within the area described in the concession.

### **Limits on transfer of concession**

98.(1) The benefits of a concession are personal to the person to whom the concession originally is granted under section 89 or 90, or to whom it is transferred under section 99, and without limiting the generality of the foregoing,

- (a) the benefits do not survive the death of the holder of the concession except as provided in subsection (2), and
- (b) the concession is not assignable to any other person except as provided by section 99.

(2) Where the holder of a concession dies, his personal representative or, if none, a person named by the Executive Council Member, may be granted all or part of the concession for a period of six months for the purpose of settling the affairs of the deceased in relation to the operation of the concession.

(3) The Executive Council Member may from time to time extend the six month period referred to in subsection (2) as the necessity of the case in his opinion may require, but in no case shall the period be extended beyond two years after the death of the holder of the concession.

(4) Subsection (3) does not apply to a concession granted under subsection 90(3) or (4).

### **Transfer of concessions**

99.(1) An outfitting concession may be transferred to any person who is qualified under section 89.

(2) A trapping concession may be transferred to any person who is qualified under section 90.

(3) The transfer of a concession shall be done by

- (a) revoking the concession, and
- (b) granting a new concession to the transferee for all or part of the area for a term fixed in accordance with section 91 or, if he has not previously held such a concession, in accordance with section 92.

(4) No transfer of a concession is effective except as provided by subsection (3).

### **Outfitting concession revocation and suspension**

**100.**(1) An outfitting concession may be revoked or suspended in whole or in part where

- (a) the holder of the concession ceases to have the qualifications specified in section 89 or prescribed under subsection 155(1),
- (b) an outfitter's certificate issued in respect of the concession may be cancelled under paragraph 108(2)(c),
- (c) the Executive Council Member is of the opinion that it is necessary to revoke or suspend the concession for the conservation of wildlife in all or part of the outfitting area, or
- (d) the Executive Council Member is of the opinion that it is necessary to revoke or suspend the concession in whole or in part for any other reason to protect the public interest.

(2) An outfitting concession shall not be revoked or suspended in whole or in part under paragraph (1)(c) or (d) until the matter has been referred to the Concession and Compensation Review Board established under section 168 and the board has had 30 days to make a recommendation.

### **Outfitting compensation**

**101.**(1) Where an outfitting concession is revoked under paragraph 100(1)(c) or (d) and at least two years notice of the revocation is not given, compensation shall be paid to the holder of an outfitter's certificate issued in respect of the concession in an amount equal to twice the average annual net income of the holder of the certificate, and his assignors if any, in the period of three years immediately preceding the date on which the notice is given.

(2) For the purposes of subsection (1), "net income" means the net income of the outfitting business as reported for income tax purposes in relation to the outfitting area described in the concession.

(3) Where the renewal of an outfitting concession is refused under paragraph 95(1)(b) or (c) and at least two years notice of the refusal to renew is not given, compensation shall be paid to the holder of an outfitter's certificate issued in respect of the concession, and subsections (1) and (2) apply with the necessary changes to the determination of the amount of the compensation.

(4) It shall be a condition precedent to any payment of compensation under this section that an appropriation be made by the Legislature.

**Trapping concession revocation and suspension**

**102.**(1) A trapping concession may be revoked or suspended in whole or in part where

- (a) the holder of the concession is convicted of an offence under section 14 or subsection 20(1), 26(1) or 34(1) and the time for appealing the conviction has expired.
- (b) the holder of the concession ceases to have the qualifications specified in section 90 or prescribed under subsection 155(1),
- (c) in the opinion of the Executive Council Member the operation of the trapping concession is not conducted in compliance with this Act or regulations under section 167,
- (d) the Executive Council Member is of the opinion that it is necessary to revoke or suspend the concession for the conservation of wildlife in all or part of the trapping area, or
- (e) the Executive Council Member is of the opinion that it is necessary to revoke or suspend the concession in whole or in part for any other reason to protect the public interest.

(2) A trapping concession shall be deemed to be revoked automatically upon the cessation of the holder to be qualified under section 90 or, in the case of a concession granted to a society, upon the occurrence of any event that would enable a person not qualified under section 90 to exercise any voting rights of a member of the society.

(3) A trapping concession shall not be revoked or suspended under paragraph (1)(c), (d) or (e) until the matter has been referred to the Concession and Compensation Review Board established under section 168 and the board has had 30 days to make a recommendation.

**Trapping compensation**

**103.**(1) Where a trapping concession is revoked under paragraph 102(1)(d) or (e) and at least two years notice of the revocation is not given, compensation may be paid to the holder of the concession in an amount equal to twice the average annual net income of the holder of the concession and his assignees, if any, in the period of three years immediately preceding the date on which the notice is given.

(2) For the purposes of subsection (1), "net income" means the net income of the holder of the concession as reported for income tax purposes in relation to the trapping area described in the concession.

(3) Where the renewal of a trapping concession is refused in whole or in part under paragraph 95(1)(b) or (c) and at least two years notice of the refusal to renew is not given, compensation may be paid to the holder of the concession in an amount not exceeding such amount as may be recommended by the Concession and Compensation Review Board established under section 168.

**No other compensation to be paid**

**104.** No compensation shall be paid in respect of the revocation or suspension of a concession except under section 101 or 103.

**Outfitting and trapping permits**

**105.**(1) An annual permit may be issued to give to the holder of an outfitting concession permission to outfit in an area in respect of which no outfitting concession is in effect.

(2) An annual permit may be issued to the holder of a trapping concession to hunt fur bearing animals in an area in respect of which no trapping concession is in effect.

**OUTFITTERS' CERTIFICATES****Eligibility and form**

**106.**(1) An outfitter's certificate may be issued in respect of an outfitting concession to

- (a) the person who is the holder of the concession, or
- (b) any corporation in which 51 percent or more of its issued share capital having any voting rights under any circumstances belongs to the holder of the concession and all of the remaining share capital having voting rights under any circumstances belongs to persons who are Canadian citizens at the time of the issuance of the certificate.

(2) A natural person who applies for an outfitter's certificate shall disclose in writing to the Executive Council Member whether and the extent to which he owns, or owns an interest in, any share capital having voting rights of any corporation which is carrying on the business of outfitting non-resident hunters or which has carried on that business during any part of the year immediately preceding the date of the application.

(3) If the natural person who applies for an outfitter's certificate owns, or owns an interest in, any share capital having voting rights of a corporation of the kind described in subsection (2), an outfitter's certificate shall not be issued to that natural person and may be issued to the corporation only if the corporation qualifies for it under paragraph (1)(b).

(4) An outfitter's certificate shall specify the outfitting concession in respect of which it is issued.

(5) An outfitter's certificate is valid for a period of not more than one year.

(6) A corporation that is the holder of an outfitter's certificate shall notify the Executive Council Member in writing of the names, addresses and citizenship of all of the holders of shares in the corporation having voting rights under any circumstances, and the notice shall be given upon every change in the ownership of such shares, or the issuance of such shares.

**Effect of certificate**

**107.** An outfitter's certificate gives permission to the holder of the certificate to carry on the business of outfitting in relation to the outfitting area described in the outfitting concession in respect of which the certificate is issued.

**Cancellation or suspension of certificate**

**108.**(1) An outfitter's certificate issued to a corporation under paragraph 106(1)(b) shall be deemed to be cancelled automatically upon

- (a) the cessation of the holder of the certificate to meet the requirements of paragraph 106(1)(b).

- (b) the occurrence of any event that would enable another person to exercise the voting rights of the holder of the concession, or
- (c) the acquisition by a non-Canadian, after the issuance of the certificate, of any share capital having any voting rights under any circumstances.

(2) An outfitter's certificate may be cancelled or suspended in whole or in part by the Executive Council Member where

- (a) in the opinion of the Executive Council Member the outfitting business of the holder of the certificate is not conducted in compliance with this Act or regulations under sections 176 or 177,
- (b) the holder of the certificate, or anyone in his employ or acting on his behalf, is convicted of an offence in relation to the outfitting business under section 24, 30 or 57, or subsection 22(1), 23(1) or 37(1) and the time for appealing the conviction has expired,
- (c) the holder of the certificate is convicted of an offence in relation to the outfitting business under section 42, 48 or 51, subsection 18(1), 19(1), 19(3), 20(1), 39(1) or 40(1), or regulations made under section 177, and the time for appealing the conviction has expired, or
- (d) the holder of the certificate is a corporation and it omits to give a notice to the Executive Council Member under subsection 106(6).

(3) An outfitter's certificate shall not be cancelled or suspended under paragraph (2)(b) where the Executive Council Member is of the opinion that the offence was committed without the authority, assent or acquiescence of the holder of the certificate or, in the case of a corporation, without the authority, assent or acquiescence of the directors of the corporation.

(4) Where the outfitting concession in respect of which an outfitter's certificate has been issued is revoked or suspended under section 100, the certificate shall be cancelled or suspended accordingly.

## **PART 5**

### **ADMINISTRATION AND ENFORCEMENT**

#### **Powers and duties of Executive Council Member**

**109.**(1) The Executive Council Member shall supervise and direct the administration and enforcement of this Act and for that purpose he shall be deemed to have all the powers of a conservation officer or wildlife technician under this Act.

(2) Section 13 does not apply to the Executive Council Member acting in his capacity as the Executive Council Member.

### **WILDLIFE TECHNICIANS AND CONSERVATION OFFICERS**

#### **Appointments**

**110.** The Commissioner in Executive Council shall appoint such wildlife technicians and conservation officers as may be necessary for the administration and enforcement of this Act.



**R.C.M.P.**

**111.** Members of the Royal Canadian Mounted Police have all the powers of a conservation officer under this Act.

**Dangerous wildlife**

**112.** Notwithstanding any other provision of this Act, a wildlife technician or conservation officer may hunt at any time at any place any wildlife that he has reasonable grounds to believe and does believe is dangerous, destructive, wounded or diseased.

**Entry upon land**

**113.** In the performance of his duties under this Act, a wildlife technician or conservation officer, and any person accompanying him at his request for the purpose of assisting him in the performance of his duties, may enter upon any land, and while so engaged they are liable only for any actual damage wilfully or negligently caused by them.

**Official authorization**

**114.** Notwithstanding Part 1, the Executive Council Member may, from time to time, in writing, authorize a wildlife technician or conservation officer to do, in the performance of his duties, an act the doing of which otherwise is prohibited under sections 14, 19, 23, 26, 27, 28, 34 or 35.

**Wildlife studies**

**115.(1)** A wildlife technician or conservation officer may, where he is authorized in writing by the Executive Council Member to do so in the course of his duties, hunt any wildlife that is required for the purpose of wildlife management or research.

(2) A wildlife technician or conservation officer does not commit an offence under this Act by reason only that, in the hunting of wildlife under this section, he does any act the doing of which is prohibited under sections 15, 16, 17, 18 or 20.

**Licences and permits**

**116.** A wildlife technician or conservation officer may issue any licence or permit that may be issued under this Act.

**Oaths**

**117.** An oath, affidavit, affirmation or statutory declaration under this Act may be administered, sworn, affirmed or made before a conservation officer.

**No offence**

**118.** A wildlife technician or conservation officer does not commit an offence under this Act by reason only that, in the performance of his duties under this Act,

- (a) he does any act the doing of which is prohibited under section 8, 9, 11, 21, 22, 25, 29, 30, 31, 32, 36, 37, 38, 41, 54 or 59, or
- (b) he does any act he is authorized to do under section 114.

## ENFORCEMENT POWERS

### Authority of officer

**119.** Every conservation officer has the authority to enforce the provisions of this Act.

### Inspection of firearms and wildlife

**120.**(1) A conservation officer may inspect any firearm found in or on any vehicle or boat, or in any camp occupied by a hunting party.

(2) A conservation officer may inspect any wildlife or any part of the carcass of any wildlife found in or on any vehicle or boat, or in any camp occupied by a hunting party.

### Dogs

**121.** Where a dog is known to a conservation officer to run unaccompanied by any person in a place frequented by wildlife and the conservation officer is unable after diligent inquiry to ascertain the identity of the owner of the dog, the conservation officer may kill the dog and in doing so does not incur any liability to the owner of the dog.

### Inspection of premises

**122.**(1) A conservation officer may at any reasonable time enter any premises in respect of which a licence, permit or certificate has been issued in order to inspect the premises for the purposes of this Act related to the licence, permit or certificate.

(2) Where a conservation officer is refused entry to any premises under subsection (1), the Executive Council Member may suspend or cancel the licence, permit or certificate.

### Inspection of records

**123.**(1) A conservation officer may at any reasonable time require a person to produce for his inspection any records the person is required to keep under this Act, and the officer may take extracts from the records or make copies of them.

(2) A conservation officer may at any reasonable time require a person who has, within the immediately preceding period of 12 months, operated an aircraft in the Yukon for the transportation of a person in connection with the hunting of wildlife, to produce for the inspection of the officer any log books or other records in his possession pertaining to the flight.

(3) Subsection (2) does not apply in respect of the operation of an aircraft on a regularly scheduled flight directly from one airport to another.

### Seizure of records

**124.** Where a person refuses to produce within a reasonable time any record or log book for the inspection of a conservation officer under this section, the conservation officer may apply to a justice of the peace for an order for the seizure of the record or the log book.

### Inspection of camps

**125.** A conservation officer may at any reasonable time inspect for the purposes of this Act any camp occupied by a hunting party.

**Arrest**

**126.**(1) Subject to subsection (2), where a conservation officer finds a person committing an offence under this Act he may, without a warrant, arrest the person.

(2) A conservation officer shall not arrest any person unless he has reasonable and probable grounds to believe, and does believe, that the arrest is necessary to satisfy the public interest having regard to all the circumstances, including

- (a) the need to establish the identity of the person,
- (b) the need to preserve or secure evidence of the offence, and
- (c) in the case of an offence in respect to which subsection 141(1) or (3) applies, the need to ensure that the person will attend in court to be dealt with according to law.

(3) Except where paragraph (2)(c) applies, a person arrested under subsection (1) shall be released upon his identity being established or upon the evidence being secured or preserved, as the case may be.

**Detention of suspect**

**127.**(1) Where a person is arrested for an offence to which subsection 141(1) or (3) applies, the justice before whom he makes his appearance may order that he be detained in custody to be brought before a judge of the Territorial Court, if

- (a) the person is not a resident, or
- (b) the justice is satisfied that there are reasonable and probable grounds to believe that the person will not attend in court to be dealt with according to law.

(2) Where an order is made under subsection (1), the person shall be taken before a judge of the Territorial Court forthwith.

**Power to search and procedure**

**128.**(1) Subject to subsection (2), where a conservation officer has reasonable and probable grounds to believe and does believe that there is in any place any wildlife or any part of the carcass of any wildlife taken, killed, received, kept or transported in contravention of this Act, or any object that has been used for the commission of an offence under this Act, he may without a warrant, search the place.

(2) A conservation officer shall not search a dwelling house that is not vacant unless, immediately before the search, he obtains the written permission of the lawful occupant to do so, or unless he obtains a search warrant authorizing him to do so.

(3) A search warrant may be issued by a justice of the peace where he is satisfied by information upon oath that there are reasonable grounds for believing that there is in any place

- (a) any papers, books, films, pictures, recordings or records that may afford evidence of the commission of an offence under this Act,
- (b) any wildlife or any part of any wildlife taken, killed, received, kept or transported in contravention of this Act, or
- (c) any object that has been used for the commission of an offence under this Act.

(4) In the carrying-out of a search under this section a conservation officer may use all force that is necessary in the circumstances, including the breaking of any lock or fastening, but the officer shall

- (a) ensure that the premises are left as secure after the search as they were at the commencement of the search, and
- (b) make a reasonable effort forthwith after the search to give notice of any action under this subsection to the owner or other person entitled to possession of the place searched.

(5) Where the owner or other person authorized to occupy a dwelling that is not vacant is absent from the premises, a conservation officer shall not exercise any power under subsection (4) to gain entry to the dwelling unless

- (a) he is accompanied by a member of the Royal Canadian Mounted Police, and
- (b) he has made a reasonable effort to give advance notice of the search to the owner or other person.

(6) Where a search is carried out under this section, any person found in the place may be searched.

(7) Where a conservation officer is carrying out a search under this section, other than a search under subsection (6), he may be accompanied by any person who may be of assistance to him in carrying out the search.

(8) A search warrant issued under this section shall be executed by day, unless the justice, by the warrant, authorizes execution of it by night.

(9) In this section, "place" includes any land, building, dwelling house, vehicle, tent, camper, trailer, motor home, boat or aircraft.

## **SEIZURE**

### **Power to seize wildlife and procedure**

**129.(1)** A conservation officer may seize any wildlife or any part of the carcass of any wildlife where

- (a) he is of the opinion that it may be evidence of the commission of an offence under this Act,
- (b) he is of the opinion that it may disclose evidence of disease,
- (c) he has been advised in writing by a wildlife technician that it is required for scientific examination in connection with a wildlife study, or
- (d) it is found with any other wildlife or any part of any wildlife that is seized under paragraph (a) or (b).

(2) Where any wildlife or any part of the carcass of any wildlife is seized under paragraph (1)(a) or (d),

- (a) it may be detained for not more than 30 days after the date of the seizure,
- (b) reasonable care shall be taken of it during its detention, and
- (c) the person from whom the wildlife was seized may apply within 30 days to a justice of the peace for an order for the return of the wildlife.

(3) Upon an application under subsection (2), the justice of the peace may order the return of all or part of the seized wildlife, but

- (a) no such order shall be made except upon application made within the 30 day period,
- (b) no such order shall be made in respect of any wildlife or any perishable part of the carcass of any wildlife seized under paragraph (1)(a) unless the justice of the peace is satisfied that the conservation officer who seized it has no reasonable grounds for believing that it might be evidence of the commission of an offence under this Act,
- (c) no such order shall be made in respect of any wildlife or any part of the carcass of any wildlife that is seized under paragraph (1)(b) and found to be diseased,
- (d) no such order shall be made in respect of any wildlife or any part of the carcass of any wildlife that is seized under paragraph (1)(c), and
- (e) no such order shall be made in respect of wildlife or any part of the carcass of any wildlife seized under paragraph (1)(d) unless the justice of the peace is satisfied that it is easily distinguishable from the wildlife seized under paragraph (1)(a) or (b) with which it was found.

(4) Where no application is made for the return of wildlife under subsection (2) within 30 days after the date of the seizure, the interest of all persons other than the Crown in the wildlife is extinguished, and the wildlife shall be disposed of in such manner as the Executive Council Member may order.

(5) Notwithstanding any other provision of this section, where any live wildlife is seized under this Act, the conservation officer making the seizure may return the wildlife to the wild whenever and wherever he decides it is appropriate to do so.

(6) No court shall make any order for the return of any wildlife or any part of the carcass of any wildlife seized under this Act except under this section.

(7) A conservation officer may release the seizure of any wildlife or any part of the carcass of any wildlife seized by him under this section, but he may do so only within 30 days after the date of the seizure.

#### **Power to seize other things**

**130.** Where a conservation officer finds anything that he reasonably believes may be evidence of the commission of an offence under this Act, he may seize it, and

- (a) if the thing is found in a vehicle, boat or aircraft, he may also seize the vehicle, boat, aircraft or trailer used to pull or carry any vehicle or boat, or
- (b) if the thing is found in a camper or trailer, he may also seize the camper or trailer and the vehicle used to carry the camper or pull the trailer.

#### **Conditions of detention**

**131.(1)** Where anything other than wildlife or a part of the carcass of any wildlife is seized under this Act, an affidavit describing it shall be filed with a justice of the peace or the Territorial Court as soon as it may be practicable to do so, and reasonable care shall be taken to ensure that the thing is preserved until the conclusion of any investigation or until it is required to be produced for the purposes of a trial.

(2) Notwithstanding subsection (1), where anything referred to in subsection (1) has been seized, the conservation officer who seized it may release the seizure, but he may not do so after an affidavit describing it has been brought before a justice of the peace.

(3) Subject to section 132, anything detained under subsection (1) shall be released after it has been detained for a period of three months unless, before the expiration of that period,

- (a) a justice of the peace is satisfied that, having regard to the nature of the investigation, its further detention for a specified period is warranted and he so orders, or
- (b) proceedings are commenced under this Act and, depending upon the outcome of the proceedings, the further detention or forfeiture of the thing may be ordered.

(4) Where proceedings are commenced for which the further detention of a thing detained under subsection (1) is warranted, the justice of the peace shall forward a statement describing the thing to the clerk of the Territorial Court, and the thing thereafter shall be detained in accordance with the directions of that court, subject to sections 133 and 135.

#### **Application to court for release of seizure**

132.(1) Where anything referred to in subsection 131(1) has been seized, any person may apply to a judge of the Territorial Court for an order releasing the seizure.

(2) The clerk of the Territorial Court shall give the Executive Council Member seven days notice of every application under subsection (1), and the Executive Council Member is entitled to appear and make representations at the hearing of the application.

#### **Release to suspect or other person**

133.(1) Where proceedings have been commenced against a person from whom anything referred to in subsection 131(1) has been seized and the forfeiture of the thing may be ordered upon conviction of the person, no order shall be made for the release of the thing to the person unless he provides to the court adequate security for the fair value of the thing.

(2) Where proceedings have been commenced against a person from whom anything referred to in subsection 131(1) has been seized and the forfeiture of the thing may be ordered upon conviction of the person, upon application under section 132,

- (a) the court may order the release of the thing to any other person, if the court is satisfied that the person was not a party to the offence, in which case the maximum fine that may be imposed upon the accused may be increased by an amount equal to the fair value of the thing, or
- (b) if paragraph (a) does not apply, the court may order the release of the thing to any other person upon provision to the court, by any person, of security for the fair value of the thing.

#### **Proceedings not commenced**

134. Where proceedings have not been commenced against a person from whom anything referred to in subsection 131(1) has been seized, the court may, upon application under section 132,

- (a) order its release to a person entitled to it, or

- (b) order its further detention, where the court is satisfied that its detention is reasonably necessary having regard to the nature of any investigation being conducted in relation to the enforcement of this Act.

### **Entitlement to possession and prohibited possession**

**135.**(1) Notwithstanding sections 129, 133, 134 and 145, where a judge or justice of the peace decides that the seizure of anything detained under this Act should be released,

- (a) he shall not order its return to the person from whom it was seized, unless the judge or justice of the peace is satisfied that the person is entitled to possess it,
- (b) he shall order its return to the lawful owner, if the person from whom it was seized is not entitled to possess it and the lawful owner can be found, and
- (c) he shall order its forfeiture to the Crown if the person entitled to it is unknown or cannot be found within six months of the seizure.

(2) Notwithstanding sections 129 and 131, where anything is seized, it shall not be returned or given to any person who is prohibited from using or possessing it under this Act, and it shall be forfeited to the Crown.

### **Official liability**

**136.** No liability attaches to the Crown, to the Executive Council Member, to a wildlife technician or to a conservation officer for loss or damage arising from the seizure, disposal or return in accordance with this Act of anything that has been seized, or from the deterioration of anything while it is being held under a seizure, other than loss or damage resulting from negligence or wilful neglect in its care, custody or return.

### **Seizure receipt and release procedure**

**137.**(1) Upon the seizure of anything under this Act, a receipt in the prescribed form shall be issued to the person from whom it was seized, and where wildlife or any part of the carcass of any wildlife is seized under section 129, the receipt shall specify the reason for the seizure.

(2) A receipt under subsection (1) shall specify the procedures set forth in this Act to have the seizure released.

## **MISCELLANEOUS**

### **Wildlife Advisory Committee**

**138.**(1) The Commissioner in Executive Council may appoint a Wildlife Advisory Committee which shall, in accordance with the prescribed terms of reference, give advice on matters referred to it by the Executive Council Member relating to the administration of this Act, which may include

- (a) the appointment of new members to the committee,
- (b) the review of existing or proposed regulations, or
- (c) the need for amendment of this Act.

(2) In appointing members to the Wildlife Advisory Committee, the Executive Council Member shall consider making appointments from groups or organizations representing trappers, Indians, outfitters, environmentalists and hunters.

**Porcupine Caribou Herd**

**139.** The Commissioner in Executive Council may enter into agreements with the Government of Canada with respect to the management of the Porcupine Caribou Herd.

**Wildlife sanctuaries**

**140.** The areas described in Schedule I are established as wildlife sanctuaries.

## **PART 6**

### **PENALTIES**

**Serious offences and lesser offences**

**141.(1)** Except as provided by subsections (2) and (3), every person who commits an offence under this Act is, in addition to any other penalty, liable on summary conviction to a fine of not more than \$10,000, or to imprisonment for a term of not more than 12 months, or both.

(2) Every person who commits an offence under section 6, 7, 16, 24, 29, 30, 31, 33, 44, 46, 48, 50, 51, 52, 54 or 56, subsection 8(1), 9(1), 12(2), 22(1), 22(2), 27(4), 32(1), 34(1), 36(1), 37(1), 45(1), 47(1), 47(2), 47(3), 49(1), 49(2), 55(1), 60(1), 63(2), 66(1), 142(1), 142(2), 142(4) or 144(1), or an offence under the regulations, is liable on summary conviction to a fine of not more than \$1,000.

(3) Notwithstanding subsections (1) and (2), every person who commits an offence by buying, selling, harassing, taking, wounding, killing or possessing specially protected wildlife is, in addition to any other penalty except the penalty under subsection (1), liable on summary conviction to a fine of not more than \$25,000, or to imprisonment for a term of not more than 24 months, or both.

**Other penalties**

**142.(1)** Where a person is convicted of an offence under section 6, 14, 15, 16, 17, 24, 25, 41 or 48, or subsection 5(1), 9(1), 11(1), 11(2), 12(1), 12(2), 18(1), 18(3), 19(1), 19(3), 20(1), 20(2), 23(1), 26(1), 32(1), 32(2), 43(1), 45(1), 47(1), 47(2), 47(3) or 49(1),

- (a) every licence or permit authorizing him to hunt any species or type of wildlife is cancelled, and
- (b) he shall not apply for or obtain any licence or permit authorizing him to hunt, in the immediately following licence year, any species or type of wildlife.

(2) Where a person is convicted of an offence under section 51 and the false statement by him reasonably could have influenced the decision to issue the licence, permit, certificate or concession to him, he shall not apply for or obtain any such licence, permit, certificate or concession in respect of the immediately following licensing year.

(3) Upon the conviction of a person of an offence under this Act, the Migratory Birds Convention Act (Canada) or the Game Export Act (Canada), the court may make a hunting restriction order prohibiting him from obtaining any licence or permit authorizing him to hunt any or all species or subspecies of wildlife for such period of time not exceeding five years as may be specified in the order.



(4) Where a hunting restriction order is made under subsection (3) prohibiting a person from obtaining any licence or permit authorizing him to hunt not all but some particular species or subspecies of wildlife, the person shall not obtain such a licence or permit unless there is endorsed on it a statement as to the terms of the hunting restriction order.

### **Non-hunting offences**

**143.** Notwithstanding any other provision of this Act, where a person is convicted of an offence under this Act in relation to a licence other than a licence to hunt wildlife, or in relation to a permit or certificate, the court may order that the licence, permit or certificate be cancelled, or that it be suspended for such period of time as may be specified in the order.

### **Surrender of licence and replacement**

**144.(1)** Within seven days after the holder of a licence, permit or certificate learns of its cancellation or suspension, he shall surrender it to a justice of the peace or a conservation officer.

(2) Where a licence, permit or certificate is cancelled or suspended, the holder shall not obtain or attempt to obtain a licence, permit or certificate to replace the cancelled or suspended one during the period that the cancellation or suspension is in force.

(3) Where a licence, permit or certificate is cancelled or suspended, no refund or compensation for damage or loss shall be paid to the holder or any other person in respect of the licence, permit or certificate.

### **Forfeiture**

**145.(1)** Subject to subsection (2), where a person is convicted of an offence to which subsection 141(1) or (3) applies, the judge may,

- (a) in addition to any other penalty provided under this Act, order that anything that has been seized from the person under this Act be forfeited to the Crown, or
- (b) order the release of anything from seizure, subject to section 135.

(2) Where an order has been made under section 133 or under paragraph (1)(b), the judge shall not make an order respecting anything released from seizure, but he may

- (a) order the forfeiture to the Crown of any security provided under section 133, or
- (b) where no security has been provided, increase the fine, if any, imposed by him under subsection 141(1) or (3) by an amount equal to the fair value of the thing released from seizure.

### **Damage to habitat**

**146.** The Executive Council Member has a right of action against any person who, without lawful authority, wilfully destroys or damages habitat on Crown lands declared by regulations under section 179 to be a protected habitat area, and the Executive Council Member is entitled to recover from him damages in an amount equal to the cost of rehabilitating the habitat.

## **PART 7**

### **REGULATIONS**

#### **General power**

**147.(1)** For the purpose of carrying out the provisions of this Act according to their intent, the Commissioner in Executive Council may make regulations he deems necessary ancillary to and consistent with this Act.

(2) Sections 148 to 188 do not limit the generality of subsection (1).

#### **Effect of regulations**

**148.** Every regulation made under this Act shall be deemed to be a part of this Act.

#### **Scope of regulations**

**149.** A regulation made under this Part may be made to apply to all of the Yukon or to any part or parts of the Yukon.

#### **Power to prohibit**

**150.** Every power of the Commissioner in Executive Council under this Act to make regulations respecting any activity includes the power to make regulations regulating or prohibiting the activity in whole or in part.

#### **Fees**

**151.** The Commissioner in Executive Council may make regulations requiring the payment of such fees as he deems necessary for the administration of this Act.

#### **Licences, permits and certificates**

**152.(1)** For the purposes of subsection 81(1), the Commissioner in Executive Council may make regulations prescribing the circumstances in which licences or permits may be issued.

(2) For the purposes of paragraph 41(b), the Commissioner in Executive Council may make regulations providing for the issuance of special guiding licences to residents of the Yukon to authorize them to accompany Canadian citizens who are not residents to hunt big game without being outfitted by an outfitter and accompanied by a guide, but no such licence shall be issued to a resident more frequently than once in every three years.

(3) The Commissioner in Executive Council may make regulations providing for the issuance of permits authorizing a person to hunt or possess wildlife, or the nest or egg of any bird that is wild by nature, for educational or scientific purposes, or for any other purpose that in the opinion of the Executive Council Member is in the public interest.

#### **Conditions, classes, etc.**

**153.(1)** For any licence, permit or certificate issued under this Act, the Commissioner in Executive Council may prescribe such conditions not inconsistent with this Act as he may think advisable.

(2) The Commissioner in Executive Council may make regulations establishing different classes of licences or permits and, generally for each class, make regulations

- (a) designating a specific period of the licensing year during which the licence or permit is valid;
- (b) specifying the days of the week during which a licence or permit is valid;
- (c) designating a special area within which a licence or permit is valid;
- (d) designating a special method of hunting wildlife for which a licence or permit is valid;
- (e) designating the persons who may be authorized to issue a licence or permit;
- (f) designating the species or type of wildlife in respect of which a licence or permit is valid.

(3) Without limiting the generality of subsection (2), regulations made under this section may

- (a) limit the number of licences or permits of any kind that may be issued in any licensing year,
- (b) prescribe the method of selection of persons who may receive a licence or permit referred to in paragraph (a) when the number of applicants exceeds the number of licences or permits that may be issued,
- (c) restrict the issuance of licences or permits of any kind to residents only,
- (d) prescribe separate classes of licences or permits for residents, non-residents and non-resident aliens,
- (e) prescribe special conditions to which any licence or permit, or any class of licence or permit, issued to any person under a specified age is subject, or
- (f) prescribe the number of licences or permits of any kind that may be held by any one person.

### **Forms**

**154.**(1) The Commissioner in Executive Council may prescribe the form of any licence, permit, certificate or concession issued under this Act.

(2) The Commissioner in Executive Council may make regulations respecting applications for and the issuance of licences, permits certificates and concessions.

(3) The Commissioner in Executive Council may make regulations providing for the replacement of a licence, permit, certificate or concession that is lost.

### **Training courses and qualifications**

**155.**(1) The Commissioner in Executive Council may make regulations establishing training courses for prospective holders of licences, permits or certificates.

(2) The Commissioner in Executive Council may make regulations prescribing the qualifications that a person must have in order to qualify for any kind of licence, permit, certificate or concession.

### **Seals**

**156.**(1) The Commissioner in Executive Council may make regulations requiring the attachment of a seal to wildlife after it has been killed or captured, prescribing the form of seals, and regulating the use of seals.

(2) Regulations under subsection (1) may provide that no licence or permit to hunt any specified species or type of wildlife authorizes the holder to do so unless the appropriate seal has been issued to him.

#### **Licence issuers**

**157.** The Commissioner in Executive Council may make regulations

- (a) respecting the issuance of licences or permits by persons who are not members of the public service;
- (b) prescribing the terms and conditions that shall apply in respect of the issuance of licences or permits by such persons;
- (c) prescribing a class or classes of persons who may be authorized to issue licences or permits under subsection 87(1);
- (d) prescribing the amount or rate of remuneration payable under subsection 87(2).

### **OPEN SEASONS**

#### **Limited seasons**

**158.** The Commissioner in Executive Council may make regulations for the purposes of subsection 11(1) permitting the hunting of any specified species or type of wildlife by licence or permit holders, and the regulations may limit the permission to hunt to a specified area of the Yukon, a specified period of the year, a specified time of day, or a specified part of the week.

#### **Unlimited seasons**

**159.** Notwithstanding subsection 11(1), the Commissioner in Executive Council may make regulations providing for the hunting of specified species or types of wildlife without a licence or permit.

#### **Nuisance wildlife**

**160.** The Commissioner in Executive Council may make regulations declaring any species or type of wildlife to be a nuisance in a specified area of the Yukon, and the regulations may provide for the implementation of such measures as the Commissioner in Executive Council deems necessary for the hunting of the wildlife to reduce the nuisance.

### **HUNTING METHODS**

#### **General power**

**161.** The Commissioner in Executive Council may make regulations respecting any method of hunting wildlife.

#### **Prescribed weapons**

**162.**(1) The Commissioner in Executive Council may make regulations for the purposes of section 14 prescribing the weapons, traps or other devices that may be used for the killing or capturing of any specified species or type of wildlife.

(2) The Commissioner in Executive Council may make regulations regulating the use of firearms and ammunition for hunting, including the use or possession of specified kinds of firearms and ammunition in any specified area of the Yukon for hunting any specified species or type of wildlife.

**Tags**

**163.** The Commissioner in Executive Council may make regulations respecting the use of tags for hunting wildlife.

**Lures and decoys**

**164.** The Commissioner in Executive Council may make regulations respecting the use of lures and decoys for hunting.

**Trucks and boats**

**165.** The Commissioner in Executive Council may make regulations respecting the use of trucks or boats for any purpose relating to the hunting of wildlife.

**Hunting parties**

**166.** The Commissioner in Executive Council may make regulations authorizing two or more persons acting as a party to hunt a specified species or type of wildlife where only one animal may be killed by the party.

**Trapping**

**167.(1)** The Commissioner in Executive Council may make regulations respecting the trapping of wildlife, including regulations

- (a) regulating the use of bait or snares for the taking or killing of wildlife;
- (b) requiring the removal or springing of traps in an area of the Yukon before the commencement of any period of the year in which the setting of traps in that area is not permitted under this Act.

(2) The Commissioner in Executive Council may make regulations for the purpose of subsection 32(2) prescribing the interval at which traps must be checked.

(3) The Commissioner in Executive Council may make regulations providing for the making of agreements between the holders of trapping concessions allowing each other to hunt fur bearing animals in the areas described in their respective concessions, notwithstanding subsection 97(2).

**Concession and Compensation Review Board**

**168.(1)** The Commissioner in Executive Council shall make regulations establishing a Concession and Compensation Review Board consisting of three members to make recommendations to the Executive Council Member respecting

- (a) a refusal to grant a concession under subsection 91(1);
- (b) a refusal to renew a concession under subsection 95(1);
- (c) the revocation or suspension of a concession in whole or in part under paragraph 100(1)(c) or (d) or paragraph 102(1)(c), (d) or (e);
- (d) the payment of compensation upon the revocation of or refusal to renew a trapping concession;
- (e) such other matters respecting the granting, suspension or revocation of concessions and the payment of compensation as may be referred to it by the Executive Council Member.

- (2) The Commissioner in Executive Council may make regulations respecting
- (a) the organization of the board;
  - (b) the conduct of the business of the board;
  - (c) the payment of remuneration and travelling expenses to members of the board;
  - (d) the formula to be used and the criteria to be taken into consideration by the board in calculating an amount of compensation for the purpose of making a recommendation under section 103.

### **SAFETY AND FIREARMS**

#### **Possession of firearms and ammunition**

**169.** The Commissioner in Executive Council may make safety regulations respecting the possession of firearms or ammunition or specified kinds thereof for hunting in any specified area of the Yukon.

#### **Hunting safety**

- 170.** The Commissioner in Executive Council may make safety regulations
- (a) prescribing rules for the handling of firearms and ammunition;
  - (b) regulating hunting on lands leased from the Crown.

### **BAG AND POSSESSION LIMITS**

#### **Specified limits**

- 171.** The Commissioner in Executive Council may make regulations
- (a) prescribing the maximum number of wildlife of any species or type that a person may have in his possession;
  - (b) prescribing the maximum number of wildlife of any species or type that a person may hunt in his lifetime or in any day, week, month or year;
  - (c) regulating the possession of wildlife, or any species or type of wildlife.

### **IMPORT AND EXPORT**

#### **Live wild animals**

**172.** Notwithstanding subsection 28(2), the Commissioner in Executive Council may make regulations providing for the importation into the Yukon or possession within the Yukon of any live animal that is wild by nature outside the Yukon.

#### **Export of wildlife**

**173.** The Commissioner in Executive Council may make regulations respecting the exporting of wildlife from the Yukon.

#### **Handling of live wildlife**

**174.** The Commissioner in Executive Council may make regulations regulating the handling and transportation of live wildlife.

## WILDLIFE BUSINESSES

### Records and wildlife farms

175.(1) The Commissioner in Executive Council may make regulations prescribing the records to be kept by any person operating the business of

- (a) dressing or tanning pelts, skins or hides of wildlife;
- (b) wildlife photography;
- (c) taxidermy;
- (d) cutting, processing or storing the meat of wildlife;
- (e) fur trading;
- (f) making or selling objects made entirely or partly from parts of wildlife;
- (g) trading or trafficking in wildlife, or any part of the carcass of any wildlife, in any manner.

(2) The Commissioner in Executive Council may make regulations regulating

- (a) the operation of fur farms or game farms;
- (b) the purchase, sale, keeping, raising and propagation of wildlife on such farms;
- (c) the hunting of wildlife on such farms.

(3) Regulations under subsection (1) or (2) may provide for the licensing of any business or activity referred to, and for the issuance of any such licence to a corporation, society or other body that is not a natural person.

### Outfitters and guides

176.(1) The Commissioner in Executive Council may make regulations respecting the provision of equipment and services by outfitters for the protection and well-being of their clients.

(2) The Commissioner in Executive Council may make regulations establishing standards of conduct for the activities of guides.

### Outfitting quotas

177. The Commissioner in Executive Council may make regulations prescribing quotas to limit the numbers of wildlife of any species or type that may be hunted by clients of any outfitter.

## WILDLIFE MANAGEMENT

### Wildlife zones

178. The Commissioner in Executive Council may make regulations dividing the Yukon into zones and subzones for purposes related to the administration of this Act.

### Protected habitat areas

179.(1) The Commissioner in Executive Council may make regulations designating areas to be protected habitat areas for the purposes of sections 35 and 146 where he is of the opinion that it is necessary to do so because of the uniqueness of the area, its sensitivity to disturbance, the likelihood of disturbance and its importance as habitat for any species or type of wildlife.

(2) Regulations under subsection (1) shall specify the reasons for designating the area as a protected habitat area.

(3) The Commissioner in Executive Council may make regulations prescribing programs of land use for the preservation, maintenance and restoration of habitat on Crown land designated under subsection (1).

### **Garbage disposal**

**180.** The Commissioner in Executive Council may make regulations respecting the leaving of food or garbage in places where wildlife may have access to it.

### **Returns and inspection**

**181.(1)** The Commissioner in Executive Council may make regulations requiring the holders of licences, permits or certificates to file returns containing the prescribed information.

(2) The Commissioner in Executive Council may make regulations requiring the holders of licences, permits or certificates to produce wildlife for biological examination by a conservation officer.

(3) The Commissioner in Executive Council may make regulations requiring any person who kills wildlife to retain in his possession distinctive evidence of its species or type, and prescribing the parts of wildlife to be retained for that purpose and the length of time for which they are to be retained.

### **Advisory committee**

**182.** The Commissioner in Executive Council may make regulations adding to the terms of reference of the Wildlife Advisory Committee as set out in section 138.

### **Fees and rewards**

**183.** The Commissioner in Executive Council may make regulations providing for the payment of fees, or the establishment of a reward system, to promote the production of wildlife for biological examination or the furnishing of information for research purposes.

## **SPECIALLY PROTECTED WILDLIFE**

### **Protected wildlife**

**184.** The Commissioner in Executive Council may make regulations declaring any species or type of wildlife to be specially protected wildlife, and the regulations may prescribe prohibitions, restrictions or measures to be observed or implemented for the protection or survival of the species or type.

### **Endangered species**

**185.** The Commissioner in Executive Council may make regulations declaring any species or type of animal that is wild by nature outside the Yukon to be an endangered species or type, and the regulations may prohibit or restrict the possession of such an animal, or any part of the carcass of such an animal.



**MISCELLANEOUS****Alteration of definitions**

**186.**(1) The Commissioner in Executive Council may make regulations adding species or types of animals to, or deleting them from, the definitions of “big game animal”, “fur bearing animal”, “game bird” or “specially protected wildlife” set out in subsection 1(1).

(2) The Commissioner in Executive Council may make regulations deleting species or types of animals from the definition of “wildlife” set out in subsection 1(1).

(3) The Commissioner in Executive Council may make regulations defining any term not defined in this Act.

**Marking of wildlife**

**187.** The Commissioner in Executive Council may make regulations providing for the marking by a wildlife technician or conservation officer of any wildlife found by him or produced for his inspection.

**Seizure receipts**

**188.** The Commissioner in Executive Council may make regulations respecting the issuance of receipts for seized goods for the purpose of section 137.

**PART 8****MISCELLANEOUS****Trespass**

**189.** Subject to section 113, nothing in this Act affects any rights or remedies a person has at common law or by statute for trespass to land.

**Title to wildlife and Crown liability**

**190.**(1) Subject to this Act, all property, rights, title and interest in and to wildlife are vested in the Crown.

(2) Notwithstanding subsection (1) or any other provision of this or any other Act, no right of action lies, and no right of compensation exists, against the Crown for death, personal injury or property damage caused by any wildlife.

**SCHEDULE I****KLUANE WILDLIFE SANCTUARY**

Comprising all that portion of the Yukon lying within the boundaries described as follows: commencing at the point of intersection of the international boundary between the Yukon and the State of Alaska with the middle of the main channel of White River in approximate north latitude 61 degrees 45 minutes; thence south and easterly following the international boundary to its intersection with the northern boundary of the Province of British Columbia; thence

easterly following the northern boundary of British Columbia to its intersection with the western boundary of the right of way of the Haines Highway; thence north and westerly following the westerly and southerly boundary of the highway right of way to its intersection with the south boundary of the Alaska Highway; thence northerly and westerly following the southerly and westerly boundary of the right of way of the Alaska Highway to kilometre 1822.4; thence southerly and westerly 5.31 kilometres in a straight line to a point at the high water mark on the north shore of the Donjek River at approximately 61 degrees 37 minutes 46 seconds north latitude and 139 degrees 46 minutes 18 seconds west longitude; thence northerly and westerly in a line 5.31 kilometres from, and parallel to, the Alaska Highway to a point in the middle of the main channel of the White River at approximately 61 degrees 56 minutes 21 seconds north latitude and 140 degrees 32 minutes 25 seconds west longitude; thence south-westerly along the middle of the channel to the point of commencement.

#### MCARTHUR WILDLIFE SANCTUARY

Comprising all that portion of the Yukon lying within the boundaries described as follows: commencing at one of the heads of Avalanche Creek at approximately 63 degrees 16 minutes 30 seconds north latitude, 135 degrees 22 minutes west longitude; thence downstream along the left bank of Avalanche Creek to its junction with Nogold Creek; thence downstream along the left bank of Nogold Creek to its junction with an unnamed tributary at approximately 63 degrees 19 minutes 30 seconds north latitude and 135 degrees 42 minutes west longitude; thence southwesterly along the right bank of the tributary to its head; thence southwesterly in a straight line to the eastern extremity of an unnamed lake on North Crooked Creek at approximately 63 degrees 16 minutes 30 seconds north latitude and 135 degrees 49 minutes west longitude; thence along the left bank of North Crooked Creek to its junction with Crooked Creek; thence upstream along the right bank of Crooked Creek to its junction with South Crooked Creek; thence upstream along the right bank of South Crooked Creek to its junction with Woodburn Creek; thence upstream along the right bank of Woodburn Creek to Woodburn Lake; thence along the north shore of Woodburn Lake to its southeastern extremity; thence easterly in a straight line across a height of land to the head of an unnamed tributary of Little Kalzas River at approximately 63 degrees 03 minutes north latitude and 135 degrees 54 minutes west longitude; thence downstream along the left bank of the tributary to its junction with Little Kalzas River; thence downstream along the left bank of Little Kalzas River via the southwest shore of Little Kalzas Lake to its junction with Kalzas River; thence upstream along the right bank of Kalzas River to its intersection section with 135 degrees 05 minutes west longitude; thence due north along 135 degrees 05 minutes west longitude a distance of four miles, more or less, to its intersection with the right bank of Kalzas River; thence upstream along the right bank of Kalzas River to a fork at approximately 63 degrees 11 minutes 30 seconds north latitude, 135 degrees 10 minutes west longitude; thence upstream along the right bank of the northwesterly fork to its head at approximately 63 degrees 15 minutes 30 seconds north latitude, 135 degrees 18 minutes west longitude; thence northwesterly in a straight line a distance of two and one-half miles, more or less, to the point of commencement.

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# CHAPTER 179

## WILLS ACT

### Interpretation

1. In this Act,

“will” includes a testament, a codicil, an appointment by will or by writing in the nature of a will in exercise of a power and any other testamentary disposition;

“immovable property” includes real property and any leasehold or other interest in land;

“movable property” includes personal property other than a leasehold or other interest in land;

“writing” includes words printed, engraved, lithographed, typewritten or represented or reproduced by any mode of representing or reproducing words in a visible form.

### Application

2.(1) This Act applies only to wills made after April 1, 1955 and, for the purposes of this subsection, a will that is re-executed or revived by a codicil shall be deemed to be made at the time at which it is so re-executed or revived.

(2) The laws respecting wills and devolution by will in force in the Yukon prior to April 1, 1955 shall continue in force as if unaffected by this Act with respect to wills made before that date.

### Property disposable by will

3. Any person may devise, bequeath or dispose of by will all real and personal property, whether acquired before or after the making of his will, to which at the time of his death he is entitled either at law or in equity for an interest not ceasing at his death, including, without restricting the generality of the foregoing

- (a) estates pur autre vie, whether or not there is any special occupant thereof and whether they are corporeal or incorporeal hereditaments,
- (b) contingent, executory or other future interests in any real or personal property, whether or not the testator is ascertained as the person or one of the persons in whom they may respectively become vested and whether he is entitled thereto under the instrument creating them or under disposition by deed or will, and
- (c) rights of entry whether for breach of conditions or otherwise.

### Infants' wills

4.(1) Subject to subsection (2), a will made by a person who is under 19 years of age at the time it is made is not valid.

(2) A valid will may be made by a person who is under 19 years of age at the time it is made, if he is, at that time,

- (a) in the Yukon in connection with his duties as a member of any of the components of the Canadian Forces or of the Royal Canadian Mounted Police, or
- (b) a mariner at sea or in the course of a voyage.

## EXECUTION

### Formalities

5.(1) Unless otherwise provided in this Act, a will is not valid unless

- (a) it is in writing,
- (b) it is signed at the end or foot thereof by the testator or on his behalf by some other person in his presence and by his direction,
- (c) the signature described in paragraph (b) is made or acknowledged by the testator in the presence of two or more witnesses present at the same time, and
- (d) at least two of the witnesses attest and subscribe the will in the presence of the testator, with or without a form of attestation.

(2) A holograph will, wholly in the handwriting of the testator and signed by him, may be validly made, without any requirements as to the presence of or attestation by any witness.

(3) A will in writing and signed by the testator or on his behalf by some other person in his presence or by his direction may be validly made by or on behalf of a testator who is a person described in subsection 4(2), without any requirements as to the presence of or attestation by any witness.

### Place of signature

6.(1) Insofar as the position of the signature of the testator or the person signing for him is concerned, a will is valid if that signature is so placed at, after, following, under, beside or opposite to the end of the will that it is apparent on the face of the will that the testator intended to give effect, by the signature, to the writing signed as his will.

(2) Without restricting the generality of subsection (1), a will is not affected by reason of the fact that

- (a) the signature is not immediately after the foot or end of the will or a blank space intervenes between the concluding words of the will and the signature,
- (b) the signature is placed among the words of a testimonium or attestation clause or follows or is after or under a clause of attestation, either with or without a blank space intervening, or follows, is after, under or opposite the name of a subscribing witness, or
- (c) the signature is on a side, page or other portion of the papers containing the will on which no disposing part of the will is written above the signature, whether or not there appears to be sufficient space on or at the bottom of the preceding side, page or other portion of the same papers to contain the signature.

(3) No signature under this Act is operative to give effect to any disposition or direction that is underneath it or that follows it or that has been inserted after the signature was made.

### Power of appointment

7. Every will made in accordance with this Act is, insofar as the execution and attestation thereof are concerned, a valid execution of a power of appointment by will, notwithstanding that it has been expressly required that a will in exercise of the power shall be executed with some additional or other form of execution or solemnity.

**No publication required**

8. A will made in accordance with this Act is not invalid by reason only of the fact that there is no further publication thereof.

**Witnesses**

9.(1) A will is not invalid by reason only of the fact that a person who attests the execution of the will is at that time or becomes at any time afterwards incompetent as a witness to prove the execution of the will.

(2) Where a person attests the execution of a will and such person or his or her then spouse is by that will given any beneficial devise, legacy, estate, interest, gift or appointment, other than charges or directions for the payment of debts, such person is competent as a witness to prove the execution of the will or the validity or invalidity thereof, but, unless it is a will that is sufficiently attested without the attestation of such person or is one in which no attestation is necessary, the devise, legacy, estate, interest, gift or appointment is, so far only as concerns such person or the spouse of such person or persons claiming under either of them, null and void.

(3) Where by a will any real or personal property is charged with a debt or debts and a creditor or spouse of such creditor whose debt is so charged attests the execution of the will, the charging provision is not by reason only of such attestation invalid and the person so attesting is, notwithstanding such charge, competent as a witness to prove the execution of the will or the validity or invalidity thereof.

(4) No person is, by reason only of his being an executor of a will, incompetent as a witness to prove the execution of the will or the validity or invalidity thereof.

**CHANGES****Revocation**

10.(1) Alteration in circumstances since the making of a will does not in itself raise any presumption of an intention to revoke the will.

(2) No will or any part thereof is revoked otherwise than by

- (a) marriage as provided in subsection (3),
- (b) another will executed in accordance with this Act,
- (c) some writing declaring an intention to revoke the will or a part thereof and executed in accordance with the provisions of this Act respecting the execution of a will, or
- (d) burning, tearing or otherwise destroying the will by the testator or by some person in his presence and by his direction with the intention of revoking it.

(3) A will is revoked by marriage of the testator after it is made, except where

- (a) it is declared in the will that it is made in contemplation of such marriage, or
- (b) the will is made in exercise of a power of appointment and the real or personal property thereby appointed would not, in default of such appointment, pass to the heir, executor or administrator of the testator or to the persons entitled to his estate if he died intestate.

**Alteration**

**11.(1)** No obliteration, interlineation, cancellation by drawing lines across a will or any part thereof or other alteration made in a will after its execution is valid or has any effect, except insofar as the words or effect of the will before such alteration are not apparent or cannot be ascertained, unless such alteration is executed in accordance with the provisions of this Act respecting the execution of a will.

(2) For the purposes of subsection (1), the will with such alteration as part thereof shall be held to be duly executed if the signatures or written initials of the testator and of the witnesses subscribing to the alteration are made in the margin or in some part of the will opposite or near to the alteration or at the foot, end of or opposite to a memorandum referring to such alteration and writing in some other part of the will or in a codicil thereto.

**Revival**

**12.(1)** A will or any part thereof that has been in any manner revoked shall not be revived otherwise than by its reexecution or by a codicil showing an intention to revive it and executed in accordance with the provisions of this Act respecting the execution of a will.

(2) Unless an intention to the contrary is shown, where a will that has been first partly revoked and then afterwards, wholly revoked is subsequently revived, the revival does not extend to that part that was revoked prior to the will being wholly revoked.

**DEVISES AND BEQUESTS****Effect of subsequent conveyance, etc.**

**13.** Where, after the execution of a will, there is a conveyance of or other alienation or act relating to any real or personal property comprised in a will, it shall not prevent the operation of the will with respect to such estate or interest in such property as the testator has power to dispose of by will at the time of his death.

**Will speaks from death**

**14.** Unless a contrary intention appears by it, every will shall, with reference to the real and personal property comprised in it, be construed to speak and take effect as if it had been executed immediately before the death of the testator.

**Lapsed and void gifts**

**15.** Unless a contrary intention appears by the will, any real or personal property or interest therein that is comprised or intended to be comprised in any devise or bequest in the will and that fails or becomes void by reason of the death, within the lifetime of the testator, of the person to whom it is devised or bequeathed or by reason of the gift being contrary to law or otherwise incapable of taking effect shall be included in the residuary estate, if any, contained in the will.

**Inclusion of leaseholds**

**16.** Unless a contrary intention appears by the will, a devise of the land of the testator described in a general manner or as being in any particular place or in the occupation of any particular person mentioned in his will or any other general devise that would describe a leasehold estate if the testator had no freehold estate shall be construed to include the leasehold estates of the testator or any of them to which the description extends, as the case may be, as well as the freehold estates.

**Appointment by general gift**

17. Unless a contrary intention appears by the will, a devise or bequest of the real or personal property of the testator described in a general manner or as being in any particular place or in the occupation of any particular person mentioned in his will shall be construed to include the real or personal property of the testator or any of it to which the description extends, as the case may be, over which he may have power to appoint in any manner he may think proper and shall operate as an execution of the power.

**Words of limitation**

18.(1) Unless a contrary intention appears by the will, where real property is devised to any person without words of limitation, the devise shall be construed to pass the fee simple or other whole estate which the testator had power to dispose of by will in the real property.

(2) Any devise or limitation that would, heretofore, have created an estate tail, shall be construed to pass the fee simple or greatest estate the testator had in the land.

(3) Unless a contrary intention appears by the will, real property that is devised to the heir or heirs of the testator or of any other person shall pass to the person or persons to whom the beneficial interest in the real property would go in the case of intestacy.

**Meaning of “die without issue”**

19. In any devise or bequest of real or personal property, the words “die without issue” or “have no issue” or any other words which import a want or failure of issue of any person shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of that person and not an indefinite failure of his issue, subject to any contrary intention appearing by the will or to any requirements as to age or otherwise therein contained for obtaining a vested estate.

**Gift to child or sibling predeceasing testator**

20. Unless a contrary intention appears by the will, where a person

- (a) is a child, other issue or the sibling of a testator to whom, either as an individual or as a member of a class, real or personal property is devised or bequeathed by the testator for an estate or interest not determinable at or before such person’s death,
- (b) dies in the lifetime of the testator, either before or after the making of the will, and
- (c) leaves issue who are living at the time of the death of the testator,

the devise or bequest to such person shall not lapse but shall take effect as if it had been made directly to the persons amongst whom and in the shares in which the deceased person’s estate would have been divisible if he had died intestate and without debts immediately after the death of the testator.

**Rights of posthumous child**

21. Where no provision is made in the will of a parent for his child born after his death, such child shall have the like interest in his parent’s estate as if the parent had died intestate, and, in providing for the child’s share, the devises and bequests in the will shall abate proportionately and the shares of the child shall be affixed and approved by the court so as to affect as little as possible the disposition the parent made of his property by his will.

**Residue, and devise to trustee**

22.(1) Where any person dies after April 1, 1955 having by will appointed any person executor thereof, the executor shall be deemed a trustee of any residue not expressly disposed of for the person or persons, if any, who would be entitled to that residue in the event of intestacy, unless it appears by the will that the executor was intended to take the residue beneficially.

(2) Nothing in this section affects or prejudices any rights to which an executor would have been entitled, if this Act had not been passed, in cases where there is no person who would be entitled to the residue.

(3) Where real property is devised to a trustee without any express limitation of the estate to be taken by the trustee and the beneficial interest in the real property or in the surplus rents or profits thereof is not given to any person for life or, if given to a person for life, the purposes of the trust may continue beyond his life, the devise shall be construed to vest in the trustee the fee simple or whole legal estate that the testator had power to dispose of by will and not an estate determinable when the purposes of the trust are satisfied.

(4) Unless a definite term of years absolute or determinable or an estate of freehold is thereby given to him expressly or by implication, a devise of real property to a trustee or executor shall be construed to pass the fee simple or whole estate or interest that the testator had power to dispose of by will.

**Mortgages**

23.(1) In this section, "mortgage" includes an equitable mortgage and any charge whatsoever whether equitable, statutory or of any other nature and any lien or claim upon freehold or leasehold property for unpaid purchase money.

(2) Where a testator has not by will, deed or other document signified a contrary intention and dies possessed of or entitled to or under a general power of appointment by his will disposes of any interest in freehold or leasehold property that at the time of his death is subject to a mortgage, that interest, as between the different persons claiming through the testator, is primarily liable for the payment or satisfaction of the mortgage debt, and every part of the said interest, according to its value, shall bear a proportionate part of the mortgage debt on the whole of such debt.

(3) A contrary intention shall not be deemed to be signified by

- (a) a general direction for the payment of any or all the debts of the testator out of his personal estate or out of his residuary estate either real or personal or both, or
- (b) a charge of debts upon such estate, unless there is further signification by words expressly or impliedly referring to all or some part of the mortgage debt.

(4) Nothing in this section affects any right of a person who is entitled to a mortgage debt to obtain payment or satisfaction thereof out of the other assets of the deceased or otherwise.



## CONFLICT OF LAWS

### Law governing immovable property

**24.** The manner of making, the validity and the effect of a will, so far as it relates to immovable property, is governed by the law of the place where the property is situate.

### Law governing movable property

**25.(1)** Subject to subsections (2) and (3), the manner of making, the validity and the effect of a will, so far as it relates to movable property, is governed by the law of the place where the testator was domiciled at the time of his death.

(2) A will made in the Yukon, whatever was the domicile of the testator at the time of the making of the will or at the time of his death, shall, so far as it relates to movable property, be held to be well made and be admissible to probate under the laws in force in the Yukon if it is made in accordance with this Act or in accordance with the law, in force at the time of the making thereof,

- (a) of the place where the testator was domiciled when the will was made, or
- (b) of the place where the testator had his domicile of origin.

(3) A will made outside the Yukon, whatever was the domicile of the testator at the time of making the will or at the time of his death, shall, so far as it relates to movable property, be held to be well made and be admissible to probate under the laws in force in the Yukon if it is made in accordance with this Act or in accordance with the law, in force at the time of the making thereof,

- (a) of the place where the testator was domiciled when the will was made,
- (b) of the place where the will was made, or
- (c) of the place where the testator had his domicile of origin.

### Change of domicile

**26.** A subsequent change of domicile of a person who has made a will shall not, in itself, effect revocation of a will or invalidate it or alter its construction.

## TESTAMENTARY ADDITIONS TO TRUSTS

### Addition to trust

**27.(1)** A testator may by will make a devise or bequest, the validity of which is governed by the law of the Yukon, to the trustee or trustees of a trust established or to be established

- (a) by the testator,
- (b) by the testator and some other person or persons, or
- (c) by some other person or persons,

if the trust regardless of the existence, size or character of the corpus thereof, is identified in the will of the testator and the terms of the trust are set forth

- (d) in a written instrument, other than a will, executed before or concurrently with the will of the testator, or
- (e) in the valid last will of a person who has predeceased the testator.

(2) A trust mentioned in subsection (1) includes a funded or unfunded life insurance trust, notwithstanding that the settlor has reserved any or all rights of ownership of the insurance contract.

- (3) A devise or bequest made under subsection (1) is not invalid because the trust
  - (a) is amendable or revocable or both, or
  - (b) was amended after the execution of the will or after the death of the testator.

**Property devised to trust**

**28.**(1) Where, in accordance with the provisions of section 27, a testator devises or bequeaths property to a trustee or trustees, unless the will of the testator otherwise provides, the property so devised or bequeathed

- (a) shall not be deemed to be held under a testamentary trust of the testator but shall become part of the trust to which it is given, and
- (b) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust.

- (2) A trust to which property is devised or bequeathed by a testator includes
  - (a) any amendments made thereto before the death of the testator, notwithstanding that the amendments were made before or after the execution of the will of the testator, and
  - (b) where the will of the testator so provides, any amendments to the trust after the death of the testator.

**Property devised to terminated trust**

**29.** The revocation or termination before the death of a testator, of a trust to which the testator has devised or bequeathed property, causes the devise or bequest to lapse.

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# CHAPTER 180

## WORKERS COMPENSATION ACT

### Interpretation

1.(1) In this Act,

“accident” includes

- (a) a wilful and intentional act, not being the act of the worker,
- (b) a chance event occasioned by a physical or natural cause, and
- (c) disablement arising out of and in the course of the employment, and where the disablement is caused by disease the date of the accident shall be deemed to be the date of the disablement;

“board” means the Workers Compensation Board established pursuant to subsection 8(1);

“child” in respect of a worker includes

- (a) a child of any child of the worker,
- (b) a child by a former marriage of the spouse of the worker, and
- (c) any person to whom the worker stands in loco parentis;

“compensation” includes expenses relating to the provision of medical aid;

“dependant” in respect of a worker means a member of the family of the worker who is wholly or partially dependent on the worker’s earnings for the ordinary necessities of life or who, but for the worker’s incapacity due to an accident, would have been so dependent, and a dependent spouse, child or other member of a worker’s family who is a dependant of the worker;

“employer” means every person, firm, association, body or corporation having in his or its service one or more workers, and includes

- (a) an independent operator to whom this Act has been made applicable under section 5,
- (b) the Government of the Yukon, and
- (c) the Crown in right of Canada insofar as it submits to the operation of this Act;

“employment” means employment in an industry or in any part thereof;

“executive director” means the executive director appointed under subsection 9(2);

“independent operator” means a person who carries on or engages in any industry and does not employ any workers in connection with that industry;

“industry” includes every establishment, undertaking, trade or business in or being carried on in the Yukon;

“injury” means personal injury;

“invalid” means a person who is physically or mentally incapable of earning his living;

“learner” means any person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry in the course of undergoing training or probationary work as a preliminary to employment;

“maximum wage rate” means the maximum wage fixed or calculated pursuant to section 90;

“medical aid” includes medical and other services provided by a medical practitioner while practising as such, nursing services, hospital services, drugs, dressings, x-ray treatment, special treatment, transportation and such other things as the board may authorize or provide;

- “medical practitioner” means a person who is authorized by law to practise medicine in the place where he is so practising and includes a person skilled in the art of healing who is authorized by law to practise the art of healing in the place where he is so practising;
- “member of a family” in respect of a worker means the worker’s spouse, parent, grandparent, step-parent, child, grandchild, step-child, sibling, half-sibling, and a person who stands in loco parentis to the worker or to whom the worker stands in loco parentis (whether or not there is any degree of consanguinity between such person and the worker);
- “mine rescue work” includes the repair of the equipment necessary for and the training necessary for such work;
- “outworker” means a person to whom articles or materials are given to be made up, cleaned, washed, altered, ornamented, finished, repaired or adapted for use or sale at his own home or at other premises not under the control or management of the person who gave him the articles or materials;
- “payroll” or “wages” in respect of an employer means the total remuneration earned in a year by all workers employed by an employer engaged in an industry to which the Act applies;
- “permanent total disability” includes
- (a) total and permanent loss of the sight of both eyes,
  - (b) the loss of both feet at or above the ankle,
  - (c) the loss of both hands at or above the wrist,
  - (d) the loss of one hand at or above the wrist and one foot at or above the ankle,
  - (e) any injury to the spine resulting in permanent and complete paralysis of legs or arms or of one leg and one arm, and
  - (f) any injury to the skull resulting in an incurable incapacitating mental disorder;
- “remuneration” includes salary, wages, commissions, tips, earnings for overtime, piece work and contract work, bonuses and allowances, the cash equivalent of board and lodging, store certificates, credits and any substitute for money;
- “silicosis” means a fibrotic condition of the lungs of a worker
- (a) caused by dust containing silica, and
  - (b) evidenced by specific x-ray appearances or by the results of other scientific tests or examinations,
- that has resulted in a substantially lessened capacity for work by the worker;
- “volunteer worker” means a person who does any work for a person as a volunteer receiving no remuneration or only nominal remuneration;
- “worker” means an individual who performs services for an employer under an express or implied contract of service or apprenticeship, and includes
- (a) any person engaged in training for mine rescue work and any person who, with the consent of the person charged with the management of a mine or of the person in charge of an authorized mine rescue crew, is doing rescue work at a mine after an accident, explosion or other catastrophe,
  - (b) where a contractor enters into a contract with a person engaged in the mining industry for the performance of mining operations for such other person, the employees of the contractor who performs the operations and the contractor while actually performing them,
  - (c) a learner, and
  - (d) any individual who is deemed by any provision of this Act or by any regulation to be a worker.

(2) Where a person does any work in an industry to which this Act applies for a person engaged in that industry, the person who does the work shall, for the purposes of this Act, be deemed to be a worker of the person for whom he does the work except when the person doing the work

- (a) is himself an employer, or the worker of an employer, in an industry whether this Act does or does not apply to that industry,
- (b) is a person to whom compensation is not payable by reason of his being a director of a corporation, or
- (c) is an independent operator whose application to have this Act apply to him has been approved by the board under section 5.

(3) Notwithstanding subsection (2), the board may, upon the application of a person engaged in an industry to which this Act applies, deem all persons doing work for that person in that industry to be his workers for the purposes of this Act.

(4) Notwithstanding subsection (2), the board, if it considers it advisable to do so, may by order declare subsection (2) not to apply to any designated class of persons.

### **Application**

2. Subject to subsection 4(2), this Act applies to all employers and all workers in all industries in the Yukon, except

- (a) persons referred to in paragraph 4(1)(a), (b), or (c), and
- (b) employers and workers in the industries designated by order of the board.

### **Differential in rates**

3. The board may by order establish such subclassifications, differentials and proportions in the rates as between the different kinds of employment in the same class as the board considers advisable, and where any particular industry in the opinion of the board is so circumstanced or conducted that the hazard is greater than the average of the class or subclass to which the industry is assigned, the board may by order impose upon the industry a special rate, differential or assessment to correspond with the excessive hazard of the industry.

## **COMPENSATION**

### **Eligibility for compensation**

4.(1) Where in any employment to which this Act applies, a worker suffers injury or death by accident arising out of and in the course of the employment, compensation shall be paid, subject to the provisions of section 7 and except where the worker is

- (a) employed in employment of a casual nature otherwise than for the purposes of the employer's industry,
- (b) an outworker, or
- (c) a domestic servant.

(2) Every person who is a

- (a) duly ordained or appointed cleric,
- (b) member of a religious order, or
- (c) lay reader

is exempted from the application of this Act while exercising his religious functions as such.

(3) Notwithstanding subsection (1) or (2), compensation may, upon the application of an employer therefor and subject to such terms, conditions and period of time as the board considers satisfactory, be paid with respect to a worker who suffers injury or death by accident arising out of and in the course of employment where that worker is

- (a) employed in employment of a casual nature otherwise than for the purposes of the employer's industry,
- (b) an outworker,
- (c) a domestic servant, or
- (d) a person who is exempted from the application of this Act by subsection (2).

### **Special cases**

5.(1) Subject to subsections (4), (5) and (7), compensation shall not be paid to a volunteer worker, an independent operator, an employer or a director of a corporation unless an application to have this Act apply to him has been approved by the board.

(2) Subject to subsections (4), (5) and (7), compensation shall not be paid to a member of the council of a municipality unless an application has been made by resolution of the council of the municipality to have this Act apply to the members of the council, and the application has been approved by the board.

(3) An application under subsection (1) or (2) shall state the sum for which coverage is requested, which shall not exceed the maximum wage rate, and such assessment shall be levied in respect of the application as the board may order.

(4) Where an application under subsection (1) or (2) is approved, the provisions of this Act relating to workers shall be deemed to apply to the person in respect of whom the application was made with the necessary changes and, where applicable, he shall for the purposes of assessment under this Act be deemed to be his own employer.

(5) Where the approval by the board of an application under subsection (1) or (2) is delayed by inadvertence, the board in its discretion may make its approval effective from the date on which the application might otherwise have been approved.

(6) Subject to subsection (7), the approval of an application under this section is effective until the last day of February in the year immediately following the year in which the approval is made.

(7) The board may at any time revoke its approval of an application made under subsection (1) or (2), and upon the revocation subsection (4) ceases to apply to the person in respect of whom the application was made.

### **Accident elsewhere than in the Yukon**

6.(1) Where an accident that would entitle the worker or his dependants to compensation under this Act if the accident had happened in the Yukon happens while he is employed elsewhere than in the Yukon, the worker or his dependants are entitled to compensation under this Act if

- (a) the worker is a resident of the Yukon or his usual place of employment is in the Yukon,

- (b) the nature of the employment is such that in the course of the work or service that the worker performs, the work or service is required to be performed both within and outside the Yukon,
- (c) the employment out of the Yukon is a continuation of the employment by the same employer within the Yukon, and
- (d) the employment out of the Yukon has lasted less than 12 months.

(2) Where the operation in which the worker is and has been employed elsewhere than in the Yukon continues or is likely to continue beyond the period of 12 months and the worker continues or is likely to continue to be employed therein, the period of 12 months may, upon application by the employer, be extended by the board for a further period of 12 months or such lesser period as the board orders, and on further applications by the employer may be further extended by the board from time-to-time as it sees fit.

(3) Where by the law of the country or place in which the accident happens the worker or his dependants are entitled to compensation or some other remedy in respect of it, he or they, as the case may be, shall elect whether they will claim compensation or the other remedy under the law of that country or place or compensation under this Act, and shall give notice of such election, but if there is in existence an agreement under subsection (5) the right of election is subject to the terms of such agreement.

(4) Notice of the election shall be given to the board within 30 days after the happening of the accident or, if it results in death, within 30 days after the death, or within such longer period as, either before or after the expiration of such 30 days, the board allows, and if notice of election is not given within the time allowed by this subsection it shall be presumed that the worker or his dependants, as the case may be, have elected not to claim compensation under this Act.

(5) Where pursuant to subsection (3) a worker or dependant elects to claim compensation under this Act in respect of an accident that happened outside the Yukon and previously, concurrently or subsequently claims compensation or other remedy under the law of any other country or place in respect of the same accident, the worker or dependant shall be deemed to have forfeited all rights to compensation under this Act in respect of that accident, and any money paid to him or on his behalf by the board in respect thereof constitutes a debt due from him to the Government of the Yukon.

(6) Subsection (5) does not affect the right to compensation of a worker or dependant who takes action at the direction of the board under the provisions of subsections (10), (11) and (12).

(7) Notwithstanding subsection (5) a worker or dependant who, before claiming under this Act, has in error claimed compensation under the law of the country or place wherein the accident happened and has been found not entitled to such compensation shall be deemed not to have forfeited his rights under this Act by reason of having made such claim.

(8) The Executive Council Member on the recommendation of the board may enter into an agreement with the workers compensation board of any province providing for the payment of compensation in conformity with the provisions of this Act for injuries to workers who are employed under such conditions that part of the work incidental to the employment is per-

formed in the Yukon and part of the work in another province, the purpose of such agreement being to ensure that such workers or their dependants receive compensation either in conformity with this Act or in conformity with the Act in force in the other province relating to workers compensation, as the case may be, and to avoid a duplication of assessments.

(9) Payment out of the compensation fund of money required to be paid pursuant to an agreement made under subsection (8) may be made to the workers compensation board of any province, and all money received by the board of the Yukon pursuant to any such agreement shall be paid by it into the compensation fund.

(10) If a worker or dependant entitled to compensation under this Act has any right of action in a place other than the Yukon in respect of personal injuries to the worker, he shall assign all damages to be recovered thereunder to the board, and the board may withhold payment of compensation until the assignment is made in a form satisfactory to the board.

(11) In the event of the board directing any such injured worker or dependant to take any such action, the worker or dependant shall commence and prosecute the action with diligence, and in the event of his not so doing the board may refuse to pay any compensation or may withhold any part of the compensation otherwise payable.

(12) Where the board directs the worker or dependant to take such action it shall repay him the costs necessarily incurred by him in the prosecution thereof, but the board is not required to pay the costs of any appeal unless the appeal is taken under the direction of the board.

### **Compensation reduced or not payable**

7.(1) A worker who is injured or disabled as a result of an accident is not entitled to compensation if

- (a) the accident is attributable solely to the serious and wilful misconduct of the worker, and death or serious disability does not result from it, or
- (b) the accident occurs as a direct result of enemy action or of action taken in combatting an enemy force or in an attempt to repel a real or apprehended attack by such force.

(2) Where, except in the case of silicosis, the injury, disability or death of a worker employed by an employer to whom this Act applies

- (a) is due to an accident of the kind described in the third paragraph of the definition of "accident" in subsection 1(1), or
- (b) the accident was caused partly by conditions encountered by the employee while in the employment of the employer and partly by conditions not so encountered,

compensation is payable in accordance with this Act only in an amount that is in proportion to the extent to which the accident was due to conditions encountered by the employee while in the employment of the employer.

(3) Where a worker is found dead at a place where he had a right to be in the course of his employment, his death shall be presumed to be the result of an accident arising out of and in the course of his employment unless there is evidence sufficient to rebut the presumption.



(4) Unless the contrary is shown, an accident

- (a) that arises out of the employment of a worker shall be presumed to occur in the course of such employment, and
- (b) that occurs in the course of the employment of a worker shall be presumed to arise out of such employment.

(5) Where a worker involved in an accident is disabled by the accident only on the day the accident occurred, he is entitled to no compensation other than medical aid, but if he is disabled for more than one day he is entitled to compensation on and from the day following the day of the accident.

### WORKERS COMPENSATION BOARD

#### **Establishment and operation**

8.(1) There is hereby established a body corporate, to be known as the Workers Compensation Board consisting of three members appointed by the Commissioner in Executive Council as follows:

- (a) one member shall be appointed from among representatives of industry in the Yukon;
- (b) one member shall be appointed from among representatives of labour in the Yukon;
- (c) one member shall be appointed from the public service of the Yukon, who shall be the chairperson.

(2) Members of the board other than the chairperson shall hold office during good behaviour for such term, not exceeding three years, as may be designated by the Commissioner in Executive Council upon their appointment, and may be reappointed upon the expiration of such term.

(3) The chairperson of the board shall hold office during good behaviour for five years at a time.

(4) The Commissioner in Executive Council shall fix the remuneration of each member of the board other than the chairperson, and such remuneration shall be paid out of the compensation fund.

(5) Two members of the board constitute a quorum and the board may act on all matters and things required to be done by it on the decision of the quorum of the members.

(6) The chairperson shall be the chief executive officer of the board, having the supervision over and direction of the work of the board, and shall not engage in any other business or employment for remuneration during the term of his appointment which may create a conflict of interest with his duties as chairperson.

(7) The Commissioner in Executive Council may appoint a person from the public service of the Yukon to act as chairperson of the board during the absence of the chairperson or his incapacity to act.

(8) No vacancy on the board impairs the right of the remaining members to act.

**Duties, staff and reporting**

9.(1) The board may administer this Act and in the exercise of its powers under this Act the board shall be deemed to be acting on behalf of the Government of the Yukon and the Commissioner in Executive Council shall delegate to the board all administrative duties under this Act that are not inconsistent with the provisions of the Yukon Act (Canada).

(2) The board shall appoint an executive director and a staff of such other persons as it considers necessary for carrying out the provisions of this Act, and it may designate their duties.

(3) The board may delegate all or any of its powers of administration to such of the staff as it designates.

(4) The executive director and the staff shall be members of the public service of the Yukon.

(5) The office of the board shall be situated at Whitehorse, but meetings of the board may be held at Whitehorse or at such other place in the Yukon as the board may direct.

(6) The board shall sit at such times, not less often than once each month, and conduct its proceedings in such manner as it considers most satisfactory for the proper discharge and speedy dispatch of its business.

(7) The board may from time to time appoint one or more persons having special technical or other knowledge to enquire into and report on any matter before the board or in respect of which the board deems it necessary to have information.

(8) Orders of the board under sections 2 and 3, and subsections 1(4), 42(2), 48(3), 69(11), 85(2), 89(4), 90(1) and 91(2) come into force upon their publication in the Yukon Gazette.

(9) The board shall report to the Executive Council Member once in each year not later than May 31 or more often as directed on all matters respecting the administration of the Act, including reports on

- (a) investment policies concerning the assets of the compensation fund,
- (b) actuarial reviews of assessment rates,
- (c) actuarial reviews of the liabilities of the pension and other reserves and provisions forming part of the compensation fund,
- (d) financial and management practices, plans and policies, and
- (e) such other matters as the Executive Council Member requests

and the Executive Council Member shall lay the report or reports of the board before the Legislative Assembly within 15 days after it has been made if the Assembly is then sitting, and otherwise within 15 days after the commencement of the next ensuing session.

**Powers and jurisdiction**

10.(1) Except as otherwise provided by this Act, the board has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Act, and the action or decision of the board thereon is final and conclusive and is not open to question or review in any court, and no proceedings by or before the board shall be restrained by injunc-

tion, prohibition or other process or proceedings in any court or be removed by certiorari or otherwise into any court, nor shall any action be maintained or brought against the board in respect of any act or decision done or made by it in the honest belief that the same was within its jurisdiction.

(2) Without restricting the generality of subsection (1), the exclusive jurisdiction of the board extends to examining, inquiring into, hearing and determining

- (a) whether an accident is an accident within the meaning of this Act,
- (b) whether disability exists by reason of an accident and the degree of such disability,
- (c) the duration of disability by reason of an accident,
- (d) whether earning capacity has been impaired by reason of an accident and the degree by which it has been impaired,
- (e) the amount of average earnings,
- (f) whether a person is a member of the family of an employer or a worker, as the case may be,
- (g) whether dependency exists,
- (h) whether an industry or any part thereof is within the scope of this Act,
- (i) whether any person or aggregation of persons is an employer within the meaning of this Act,
- (j) whether a person is a worker within the meaning of this Act, and
- (k) whether a worker or a dependant is entitled to compensation under this Act.

(3) The board has power to examine, inquire into and hear any matter that has been dealt with by it previously and, on such examination, inquiry or hearing, has the power to rescind or vary any decision or order previously made by it.

(4) The board is not bound by its own previous rulings or decisions, and all rulings and decisions that it makes shall be upon the merits and justice of the case before it.

(5) The board has the same powers as the Supreme Court for compelling the attendance of witnesses, examining witnesses under oath and compelling the production and inspection of books, papers, documents and things.

(6) The board may cause depositions of witnesses residing within or without the Yukon to be taken before any person appointed by it in a manner similar to that prescribed by the Rules of Court.

(7) The board may appoint any person to inquire into, and report upon any matter that the board has authority under this Act to examine or inquire into, and may act upon the report of such person.

(8) Any person appointed by the board pursuant to subsection (7) to inquire into and report upon any matter has the same powers as the board would have in inquiring into the matter.

**Issuance of certificate embodying substance of order**

11. The board may, in any case where it deems it necessary and shall on the application of an employer, worker or dependant of a worker interested in any order, ruling or decision of the board, issue a certificate embodying the substance of any such order, ruling or decision.

**Contribution, waiver or assignment by worker**

12.(1) Except as authorized by this Act, no employer shall

- (a) either directly or indirectly deduct from the remuneration of any worker employed by him any part of any sum that he is or may become liable to pay to the board, or
- (b) require or permit any worker employed by him to indemnify him or to contribute in any manner towards indemnifying him against any liability that he has incurred or may incur under this Act.

(2) An agreement by a worker to waive or give up any benefit or any part thereof to which he or his dependants are or may become entitled under this Act is void.

(3) Except as otherwise provided in this Act, no amount payable as or on account of compensation

- (a) is capable of being assigned, charged or attached, and
- (b) no claim is capable of being set-off against such amount, without the prior approval of the board.

**Recovery of overpaid compensation**

13. Where the board pays to any person, in purported compliance with this Act, any amount as or on account of compensation to which that person is not entitled, such amount may be recovered by the board

- (a) as a debt due to it by that person,
- (b) by way of set-off against any amount that is or becomes payable to that person as or on account of compensation, or
- (c) partly as in paragraph (a) and partly as in paragraph (b).

**Determination of claims for compensation**

14.(1) An application for compensation shall be dealt with and determined in the first instance on behalf of the board by one or more claims officers.

(2) Where a permanent disability results from an accident, the evaluation of the worker's disability shall be made on behalf of the board by one medical and one non-medical person selected by the board.

**Notice of decision**

15. Where the board makes a decision as to the entitlement of a worker or his dependant to compensation, it shall advise the worker and his employer as soon as practicable of the particulars of its decision, and upon request it shall provide him or his employer with a summary of the reasons for its decision, including medical reasons.

**Review of claim by review committee**

16.(1) Upon the written request of a worker or his employer, the board shall cause the record of the worker's claim for compensation to be reviewed by a review committee appointed by the board, and the review committee may

- (a) hear representations on behalf of the worker or his employer, and
- (b) confirm, vary, or reverse any decision made in respect of the claim.

(2) For the purposes of its review of a claim, the review committee may require the worker to submit himself to a medical examination by a medical practitioner who is not employed by the board, and subsections 25(2) and (3) apply with the necessary changes.

(3) A decision of a review committee under subsection (1) may be appealed to the board by the worker, and in considering the appeal the board shall

- (a) consider the records of the claims officers and the review committee relating to the claim, and
- (b) give the worker and his employer an opportunity to be heard and to present new or additional evidence.

**Review in case of death of worker**

17. In the case of the death of a worker, sections 14 to 16 apply with the necessary changes to a dependant of the worker in respect of his claim for or entitlement to compensation.

**RIGHT OF ACTION AND SUBROGATION****Entitlement to compensation**

18.(1) No action lies for the recovery of compensation and all claims for compensation shall be determined pursuant to the provisions of this Act.

(2) The provisions of this Act and the regulations are in lieu of all rights and causes of action, statutory or otherwise, to which a worker or his legal personal representative or his dependants are or might become entitled against the employer of the worker by reason of personal injury to or the death of the worker arising out of any accident happening to the worker in the course of his employment and no action in respect of such personal injury or death lies against the employer.

(3) Any party to an action may, upon notice to any other parties thereto, apply to the board for adjudication and determination of the question of the plaintiff's right to compensation under this Act and the regulations, and its adjudication and determination is final and conclusive.

(4) Where an accident happens to a worker in the course of employment entitling him or his dependants to compensation under this Act and the circumstances of the accident are such as to also entitle the worker, his legal personal representative or his dependants to an action against some person other than his employer, the board is subrogated to the cause of action of the worker, his legal personal representative or his dependants against each other person for or in respect of the personal injury to or death of the worker.

**Effect of subrogation**

19.(1) Where the board has become subrogated to the rights of a worker, his personal representative or his dependants under section 18,

- (a) no payment or settlement shall be made to or with the worker or his legal personal representative or dependants for or in respect of those rights or for or in respect of any claim, cause of action or judgements arising therefrom except with the consent of the board, and any payment or settlement made in contravention of this paragraph is void,
- (b) an action may be taken against any person arising out of injury to or death of a worker
  - (i) by the worker or his legal personal representative or his dependants with the consent of the board, or
  - (ii) by the board in the name of the worker, his legal personal representative or his dependants, as the case may be, without the consent of the person in whose name the action is taken,
- (c) the board shall indemnify and save harmless the worker, his legal personal representative or his dependants from and against all costs or damages incurred in respect of any action, including costs or damages awarded by the court to the defendant, but excluding any costs which have been incurred by the worker, his legal personal representative or his dependants without authority of the board, and
- (d) the board may at any time, whether or not action has been taken by the board or the worker, his legal personal representative or his dependants and whether or not judgement has been given in any action, effect a settlement of the claim for such amount as it considers satisfactory.

(2) Where in any action in which the board is subrogated to the rights of the worker, his legal personal representative or dependants payment into court is made pursuant to the Rules of Court, the clerk of the Supreme Court, upon receipt of notice by the board of its subrogation in the matter, shall not make payment out of court except with the consent of the board.

(3) Notice to the clerk of the Supreme Court under subsection (2) may be made in the same manner as is provided in the Rules of Court for service by registered mail.

(4) Where money is received by the board because it is subrogated to the rights of a worker, his legal personal representative or his dependants,

- (a) the board may accept the money and give a receipt therefor and, where the money is accepted in full settlement, may release the person paying the money or on whose behalf the money is paid from liability in respect of the personal injury to or death of the worker resulting from the accident,
- (b) if the judgement of the court under which the money is received clearly indicates that a portion of the award is for pain and suffering suffered by the worker and resulting from the injury, the board may pay to the worker from the money remaining in its hands after payment of all legal costs incurred in recovering that money, an amount that bears the same proportion to the money remaining in its hands as the portion of the award that is attributable to pain and suffering bears to the total award,

- (c) if the money is received as a result of action taken or negotiations carried on by the worker, his legal personal representative or his dependants, the board may pay to that person, from the money remaining in its hands after payment of all legal costs incurred in recovering the money, an amount equal to 25 percent of the gross amount received by the board, but in any case where payment is made to the worker under the provisions of paragraph (b), payment to the worker under the provisions of this paragraph shall be made only to the extent by which 25 percent of the money received exceeds the payment made to the worker under the provisions of paragraph (b), and
- (d) if the balance of the money remaining in the board's hands after payment of all legal costs incurred in recovering the money and after payment of such amounts, if any, as are required to be paid under paragraphs (b) and (c), exceeds the costs of the accident to the board, including the capital cost of any pension award, the excess shall be paid over to the worker, his legal representative or his dependants, as the case may be.

#### **Circumstances removing cause of action**

20.(1) Where the conduct of a worker or the employer of a worker causes or contributes to the injury or death of another who is, or whose dependants are, entitled to compensation under this Act, neither the worker suffering injury or death, his legal personal representative, his dependants nor his employer has, in respect of the personal injury suffered by, or the death of, the worker arising out of and in the course of his employment, any cause of action against any other worker or employer except a worker or the employer of a worker who, pursuant to the provisions of section 4, is not eligible to be paid compensation or is exempted from the application of this Act.

(2) In an action taken pursuant to paragraph 19(1)(b) arising out of injury to or death of a worker, a defendant may not bring third party or other proceedings against any employer or worker whom the plaintiff may not bring an action against because of the provisions of this Act, but where the court is of the opinion that such employer or worker by his fault or negligence contributed to the damage or loss of the plaintiff, it shall hold the defendant liable only for that portion of the damage or loss occasioned by the defendant's own fault or negligence.

### **CLAIM PROCEDURE**

#### **Notice to employer of accident**

21.(1) Where a worker employed by an employer to whom this Act applies, other than a worker described in section 4, is injured, disabled or dies as a result of an accident, the worker or, if he dies as a result of the accident, a dependant of the worker shall, as soon as practicable after the accident occurs, give written notice of the accident to the employer of the worker.

(2) The written notice referred to in subsection (1) shall give the name and address of the worker and of the person giving the notice, and shall state the details and consequences of the accident and the place where it occurred.

(3) Failure to give written notice in accordance with subsections (1) and (2) is a bar to any claims for compensation under this Act in respect of the injury to, or disability or death of, the worker resulting from the accident unless the failure is excused by order of the board on the grounds that

- (a) notice in accordance with subsection (1) could not reasonably have been given in the circumstances,
- (b) the employer or his superintendent or agent in charge of the work where the accident occurred knew at the time it occurred, or should have known, of the injury, disability or death of the worker as a result of the accident, or
- (c) the board is of the opinion that the claim is a just one and ought not to be barred by this section.

#### **Notice of claim**

22.(1) No compensation is payable in respect of a claim unless notice of the claim is made to the board

- (a) by the worker within 12 months of the day of the accident or, where the death of the worker results from the accident, by a dependant within 12 months of the day of such death,
- (b) in the case of disability of a worker due to the contraction of a disease, other than silicosis, caused by the conditions in his place of employment, by the worker within 12 months of the day on which he was last exposed to such conditions prior to becoming disabled or, where the death of the worker results from the disease, by a dependant of the worker within 24 months of the day on which the worker was last so exposed, or
- (c) in the case of disability of a worker due to the contraction of silicosis caused by the conditions in his place of employment, by the worker within 12 months of the day on which he is found to be so disabled or, where the death of the worker results from silicosis, by a dependant of the worker within 12 months from the day of such death.

(2) Notwithstanding subsection 18(2) or subsection (1) of this section where proof that a worker was injured, disabled or died as a result of an accident is filed with the board within three years after the day of the accident, the board may award compensation to the worker or to dependants of the worker if

- (a) notice of the accident was given in accordance with section 21 or the failure to give such notice is excused by the board pursuant to that section, and
- (b) in the opinion of the board, the claim is a just one and ought not to be barred by this section.

#### **Notice of accident by employer**

23.(1) Every employer to whom this Act applies who has knowledge or notice of the occurrence of an accident or of the allegation of the occurrence of an accident in which a worker of the employer was injured shall, forthwith after he has such knowledge or notice,

- (a) forward to the board written notification of the happening of the accident or of the allegation thereof, and
- (b) forward a copy of the notice referred to in paragraph (a) to the worker or, in the event of the worker's death, to a dependant of the worker,



and, if the injured worker or the allegedly injured worker returns to his work or is able to return to his work, the employer shall forward to the board, within 24 hours after the fact of the return or ability to return comes to his knowledge, notification thereof, and shall make such further and other reports respecting the accident or alleged accident respecting the worker as may be required by the board.

(2) Every employer who fails to make a report required by subsection (1), unless the failure is excused by the board on the ground that the report, for a reason considered by the board to be sufficient, could not have been made, commits a separate offence for each day that such failure continues after the expiration of three days following service upon him of a demand by the board for such report, and is liable upon summary conviction to a penalty not exceeding \$500 and costs for each offence, and in default of payment of the penalty to imprisonment for a period not exceeding six months in respect of one offence or 12 months in the aggregate.

(3) In any case where an employer fails to make a report required by subsection (1), the board may make a special investigation of the accident and of the facts and circumstances surrounding it, and may recover the cost of such investigation from the employer as a debt due to it from the employer.

#### **Medical practitioner's report**

**24.(1)** A medical practitioner who attends an injured worker shall forward to the board

- (a) a report within two days after the date of his first attendance upon the worker,
- (b) such reports from time-to-time as he considers necessary or as may be required by the board, and
- (c) a report within three days after the worker is, in his opinion, able to resume work.

(2) The medical practitioner shall also, without charge to the worker, give all reasonable and necessary information, advice and assistance to the injured worker and his dependants in making application for compensation and proofs as are required.

(3) Upon the written request of the employer of an injured worker, the board shall provide the employer with a report of the progress being made by the worker.

(4) Payment of the account of a medical practitioner for services rendered to a worker who is injured in an accident does not of itself constitute the making of a claim for compensation by the worker or the acceptance by the board of a claim for compensation by the worker.

#### **Medical examination or investigation of worker**

**25.(1)** A worker who claims compensation or to whom compensation is payable under this Act shall submit himself for medical examination or investigation in such manner and at such time as the board may require.

(2) If a worker does not submit himself for medical examination or investigation as required by the board, or if he in any way obstructs such examination or investigation,

- (a) his right to compensation or, if he is in receipt of a periodical payment, his right thereto, is suspended until the examination or investigation has taken place, and

- (b) the condition found upon such examination or investigation shall, unless the board otherwise directs, be deemed to have been the condition of the worker in relation to his disability, at the time for which the examination or investigation was called.

(3) Where a worker claims compensation under this Act, the board may approve of any medical examination or investigation already carried out upon reports being submitted satisfactory for the purpose, the board may pay the costs of such medical examination or investigation, and the board may make payments to the worker, which shall be computed on the same basis as compensation for the period determined by the board as being necessary for the purpose of the examination or investigation.

#### **Nomination of medical practitioner**

26.(1) In connection with an appeal to the board under subsection 16(3), the worker may make a written request to the board for examination pursuant to the provisions of this section, and after consultation with the worker and his attending medical practitioner, if any, the board may nominate a medical practitioner for the purpose of the examination.

(2) The board may of its own motion or at the request of the employer require a worker to be examined under the provisions of this section, and where it so requires, the board shall

- (a) nominate a practitioner, and
- (b) notify, in writing, the worker and the employer of the name of the medical practitioner so nominated,

and thereafter the provisions of subsections (3) and (4) apply in respect of the examination.

(3) The medical practitioner selected pursuant to subsection (1) or (2) shall examine the worker and certify to the board

- (a) the condition of the worker.
- (b) his fitness for employment,
- (c) if he is unfit for employment, the cause of such unfitness,
- (d) the extent of his temporary or permanent disability by reason of the injury in respect of which he has claimed compensation, and
- (e) such other matters as may, in his opinion, be pertinent to the claim.

(4) A certificate given pursuant to subsection (3) is conclusive as to the matters certified therein, unless the board at any time directs otherwise.

### **GENERAL PROVISIONS WITH RESPECT TO COMPENSATION**

#### **Worker leaving Canada**

27.(1) Subject to subsection (2), where a worker to whom compensation is payable leaves Canada, he shall not thereafter be entitled to receive compensation until permission to reside outside of Canada is given by the board.

(2) Where a worker is entitled to periodic payments of compensation and in the opinion of the board the disability in respect of which the compensation is payable to the worker is likely to be permanent, the worker shall, if the board so directs, be paid any periodic payments of compensation that accrue to him while he is resident outside of Canada, if he proves, from time-to-time, in such manner as the board may require

- (a) his identity, and
- (b) continuance of disability.

### **Reduction or suspension of compensation in certain cases**

#### **28. Where an injured worker**

- (a) without prior authorization from the board, changes medical practitioners, except where he is referred by the original attending medical practitioner to another medical practitioner,
- (b) persists in insanitary or other practices injurious to him that tend to imperil or retard his recovery, or
- (c) refuses to submit to such medical or surgical treatment as the board considers is reasonably essential to his recovery,

the board may reduce the amount or suspend payment of compensation to the worker.

### **Special treatment, apparatus or allowance**

29.(1) Where in the opinion of the board it is in the best interests of an injured worker, in order to cure him of or give him relief from the effects of the injury, that he undergo a special surgical operation or other special medical treatment, the board has the right to provide such surgical operation or other special medical treatment.

(2) Where the board is of the opinion that the injury would be alleviated to an appreciable extent by any apparatus usually provided in such cases, it shall supply such apparatus to the worker, but any such action shall not in any way affect the payments made to the worker.

(3) To aid in getting injured workers back to work or in lessening or removing any handicap resulting from their injuries, the board may take such measures and make such expenditures as it deems necessary or expedient.

(4) The board shall provide for the repair, maintenance or renewal of any apparatus provided by it and that becomes in need of repair, maintenance or renewal by reason of accident or ordinary wear and tear and through no misconduct on the part of the worker, so long as the disability in respect of which such apparatus was supplied continues.

(5) The board has authority to assume the expense of replacement or repair of dentures, eyeglasses, artificial eyes or limbs or hearing aids broken as a result of an accident arising out of and in the course of the employment of the worker.

(6) If an autopsy is deemed by the board to be necessary to assist in determining the cause of death, the board may direct that the autopsy be performed within a time to be fixed by it, and if the dependant or dependants refuse to permit the autopsy, the board may reject any claim for compensation under this Act.

(7) Where a worker is confined to a hospital as a result of an injury received in an accident arising out of and in the course of his employment, and dies while so confined, the hospital authority shall report the death, immediately after it occurs, to the board.

(8) The board may, on the application of a worker, assume the cost of replacement or repair of any article of his clothing destroyed or damaged as a result of an accident in respect of which he is entitled to compensation.

(9) The board may, on the application of a worker, pay an allowance

- (a) not exceeding \$100 a year for the replacement or repair of clothing worn or damaged by reason of the wearing of a lower limb prosthesis supplied by the board, and
- (b) not exceeding \$50 a year for the replacement or repair of clothing worn or damaged by reason of the wearing of an upper limb prosthesis supplied by the board.

### **Review of compensation advances and payments withheld**

30.(1) Where an amount is payable periodically to a worker as compensation, the payment thereof may be reviewed at any time by the board at the request of the worker or the worker's employer and, on the review, the board may

- (a) reduce the amount of compensation payable.
- (b) terminate the payment of compensation, or
- (c) increase the amount of compensation payable to an amount not exceeding the maximum provided by this Act.

(2) Where a review is requested pursuant to subsection (1), the board shall forthwith notify all parties interested in the review, other than the party requesting it, of the request.

(3) Where the board makes periodic payments of compensation to a person and is of the opinion that the interests or pressing needs of the person so warrant, it may advance to the person any number of such payments not then due as in its opinion the circumstances warrant, and any payment so advanced shall be deemed to be on account of and in satisfaction of the payment so advanced.

(4) Where any person to whom compensation is payable pursuant to this Act is committed to a prison, gaol or lock-up, compensation ceases to be payable to him for the period of his confinement therein, but the whole or any part of the compensation that would but for this subsection have been payable to such person during the period of his confinement therein, shall, as the board so directs, be paid to one or more dependants of such person.

(5) Where any person to whom compensation is payable pursuant to this Act is committed to an institution other than a prison, gaol or lock-up, the compensation payable to such person while he is confined in the institution, shall, as the board so directs and in lieu of payment thereof to such person, be paid to one or more of his dependants.

(6) The board may, from time-to-time, require from a person receiving compensation, particulars of his place of residence and his mailing address and such other information as may be prescribed, and pending the receipt of such particulars or information, may withhold payment of compensation.

**Work release program**

31. Where any person who has been committed to a prison, gaol or lock-up becomes entitled to workers compensation payments because of a work release program or other circumstances, the board may direct that during the period of confinement the compensation be payable to one or more dependants of such person or that the compensation be payable to the Government of the Yukon.

**Lump sum payment**

32.(1) Where compensation is payable in respect of partial disability of a worker and the disability has not impaired by more than ten percent the work capacity enjoyed by the worker immediately before the accident, the board may pay to the worker a lump sum in lieu of periodic payments of compensation.

(2) Where compensation is payable in respect of partial or total disability of a worker and the disability has impaired by more than ten percent the work capacity enjoyed by the worker immediately before the accident, periodic payments of compensation may be commuted to a lump sum payment at the written request of the worker.

(3) Where a lump sum payment has been made to a worker pursuant to this section as a settlement in full of all compensation payable to him in respect of the disability and has been so accepted by him in writing, the worker is not thereafter entitled to be paid any further or other compensation in respect of the disability, other than the benefits provided by subsection 29(1).

**Compensation diverted to dependants**

33. Where a worker is entitled to compensation and it appears to the board

- (a) that a dependant of the worker resident in the Yukon is without adequate means of support and is likely to become a public charge or a charge upon private charity, or
- (b) that a dependant of the worker residing out of the Yukon is not being supported by the worker and that an order has been made against him by a court of competent jurisdiction for the support or maintenance of the dependant or for alimony,

the board may, in lieu of payment of compensation to the worker, pay such compensation to or for the benefit of such dependant.

**AMOUNT OF COMPENSATION FOR DEPENDANTS****Compensation to dependants where worker dies**

34.(1) Where a worker dies as a result of an accident, the compensation and the amount thereof payable are

- (a) the necessary expenses of the burial of the worker not exceeding \$600,
- (b) \$525 to a dependant widow or widower as a contribution to the expense incurred by such person because of the death of the worker,
- (c) where the death occurred away from the worker's usual place of residence and transportation of the worker's body to his usual place of residence is desirable, the necessary expenses of such transportation, not exceeding \$105,
- (d) to a dependent widow or widower, a monthly payment of \$650,

- (e) to a dependent child under the age of 16 years, other than a dependent invalid child, a monthly payment of \$165 to continue until the child attains the age of 16 years or dies before attaining that age,
- (f) to a dependent invalid child of any age, monthly payments of \$180, the payment to be continued for as long as, in the opinion of the board, it might reasonably have been expected that, had the worker lived, he would have continued to contribute to the support of the child,
- (g) to a dependent child who is 16 or 17 years of age, such amount as the board would have ordered pursuant to subsection 36(1) be continued to be paid to the child had he been approaching the age of 16 years on the day of the worker's death,
- (h) where the worker leaves no surviving spouse or the surviving spouse of the worker dies or is confined to a prison, gaol, lock-up or other institution, to
  - (i) a dependant child who has not yet attained the age of 18 years, and
  - (ii) a dependant invalid child of any age,
 a monthly amount, not exceeding \$10 per month but additional to any amount to which the child is entitled by reason of any preceding paragraph, as in the discretion of the board appears necessary adequately to maintain and support such child,
- (i) to a dependent widow or widower who is in necessitous circumstances because of illness, such monthly amount, not exceeding \$15 per month but additional to any amount to which the widow or widower is entitled by reason of any preceding paragraph, as to the board seems appropriate in view of the nature of the illness, and
- (j) to a dependent child who is ill or to a dependent invalid child, such additional monthly amount, not exceeding \$15 per month but additional to any amount to which the child is entitled by reason of any preceding paragraph, as the board may deem fit, payable for such period as to the board seems appropriate in view of the child's condition.

(2) Where the worker dies as a result of an accident and leaves no dependent spouse, or the dependent spouse subsequently dies, and any suitable person acts as foster parent in keeping up a household and maintaining and taking care of the children in a manner that the board considers satisfactory, the foster parent while so acting is entitled to receive compensation until the child attains the age of 16 years.

(3) Where the worker dies as a result of an accident and leaves no dependent spouse, or the dependent spouse subsequently dies, and the children are maintained by more than one of the persons referred to in subsection (2), the amount that would be payable to a foster parent under subsection (2) shall be divided between them according to the number of children maintained by each of them, and any discontinuance of payment to any one of them does not affect payment to any of the others.

#### **Common law relationships**

35.(1) Where a worker who dies leaving no dependent spouse

- (a) cohabited immediately preceding his death with a person of the opposite sex who was dependent on him for maintenance and support and by whom he had one or more children, or

(b) cohabited for the three years immediately preceding his death, with a person of the opposite sex who was dependent on him for maintenance and support, the compensation to which the dependent spouse of the worker would have been entitled under this Act may be paid to the person who was dependent on him for maintenance and support until that person marries or commences to cohabit with another person of the opposite sex.

(2) A person who receives or is eligible to receive compensation pursuant to subsection (1) is not entitled to receive any compensation pursuant to subsection 34(2).

**Compensation for child attending school**

**36.(1)** Where a dependent child of a worker who is receiving a benefit under paragraph 34(1)(e) is

- (a) approaching the age of 16 years,
- (b) attending an academic, technical or vocational school and making progress at the school satisfactory to the board, and
- (c) receiving payments of compensation or for whose benefit payments or compensation are being made,

the board may, in its discretion, order that payments of compensation be continued until the dependent child

- (d) fails to make progress at any such school satisfactory to the board,
- (e) no longer attends any such school, or
- (f) attains the age of 18 years,

whichever occurs first.

(2) Where a dependant child who is receiving payments pursuant to paragraph 34(1)(f) or subsection (1) or for whose benefit such payments are being made, attains the age of 18 years during a school year, the board may order that payments be continued to the end of the school year.

**Compensation for other dependants**

**37.** Where the only dependants of a worker who dies as a result of an accident are persons other than those to whom compensation is payable pursuant to subsections 34(1), 35(1) and 36(1), any such dependant is entitled to be paid compensation in a reasonable amount, to be determined by the board, that takes into account the pecuniary loss to the dependant caused by the worker's death.

**Lump sum payable on remarriage**

**38.** A dependent widow or widower who is receiving monthly payments of compensation shall be paid a lump sum of \$2625 on remarriage, but shall not be entitled to any further monthly payments of compensation after the payment for the month in which the remarriage takes place.

**Only one pension payable**

**39.** Where a person is being paid or is entitled to be paid monthly payments of compensation in respect of the death of a worker and subsequently becomes entitled to be paid monthly payments of compensation in respect of the death of another worker, the person shall be paid only the greater of the monthly payments that he is entitled to be paid.

**Dependant not resident in Canada**

40.(1) Notwithstanding any provision of this Act except subsection (2), a dependant who is resident outside of Canada is not entitled to any compensation unless, by the law of the place in which he resides, dependants of a worker to whom an accident happens in that country would, if resident in Canada, be entitled to compensation under that law; and where dependants would be so entitled, the dependant who is resident out of Canada shall not be paid compensation pursuant to this Act in an amount greater than the amount payable in a like case under the law of the place in which he resides.

(2) Where a dependant of a worker who dies as a result of an accident is resident outside of Canada in circumstances that would disentitle him to any compensation pursuant to this Act, the board may order that monthly payments or a lump sum payment of compensation be made, in an amount that the board considers just but not exceeding the amount to which the dependant would be entitled pursuant to this Act were he resident in Canada, to such dependant.

**Payments to parent or other person for child**

41. Compensation payable to a child shall be paid to a parent of the child or, if the board so directs, shall be paid to the child or to another person for the benefit of the child or shall be applied for the benefit of the child in such manner as the board directs.

**AMOUNT OF COMPENSATION FOR A WORKER**

**Disability payment**

42.(1) Where a worker is entitled to compensation because of an accident occurring after 1982 that causes permanent disability he shall be paid, on account of the disability but not on account of any impairment of his earning capacity, a lump sum award in an amount calculated in accordance with subsection (2).

(2) The board shall by order establish a rating schedule for application in calculating the amounts of awards made under subsection (1).

**Payment for loss of earning capacity**

43.(1) When a worker who is entitled to compensation because of an accident which occurs after 1982 and which causes permanent or temporary disability suffers a loss of earnings as a result after the day of the accident, the board shall estimate the impairment of his earning capacity and the weekly loss of earnings resulting from that impairment, and he shall be paid for each week an amount equal to 75 percent of that weekly loss.

(2) Subject to the other provisions of this Act, the weekly amount referred to in subsection (1) continues to be payable as long as the loss of earnings continues as a result of the impairment of the worker's earning capacity, or until the worker attains the age of 65 years, whichever occurs first.

(3) The weekly amount referred to in subsection (1) shall not exceed the weekly equivalent of the maximum wage rate.



**Calculation of impairment of earning capacity**

44. Subject to section 47, calculation of the impairment of earning capacity for the purposes of subsection 43(1) shall be based on the difference between the worker's average weekly earnings at the commencement of his loss of earnings because of the injury, and the wage the worker is estimated by the board to be capable of earning at a suitable occupation after sustaining that injury.

**Workers approaching retirement**

45. Notwithstanding subsection 43(2), where a worker is 63 years of age or more at the commencement of his loss of earnings because of an accident occurring after 1982 that causes permanent disability, the board may make the payments under subsection 43(1) for a period of not more than two years following the date of the accident.

**Recurrence of injury**

46. Where a worker injured in an accident occurring after 1982 returns to full employment and thereafter suffers a recurrence of the injury, the compensation payable to him shall be based on the greater of

- (a) his average weekly earnings at the time of the commencement of his loss of earnings resulting from the injury when the injury was initially sustained, and
- (b) the average weekly earnings at the time of his loss of earnings resulting from the recurrence of the injury, less any compensation he is already receiving in respect of that injury.

**Annual review of compensation**

47.(1) The amount of payments made under sections 43, 45 and 46 shall be reviewed annually, and adjustments in any amount shall be based on the difference between

- (a) the worker's average weekly earnings at the commencement of his loss of earnings because of the accident varied by the percentage change in the average annual consumer price index established each year by Statistics Canada, and
- (b) the wage it is estimated the worker, at the time of the review, is capable of earning.

(2) The amount determined under paragraph 47(1)(a) shall not exceed the maximum wage rate in effect at the time of the review.

(3) Calculations of the percentage change in the average annual consumer price index shall be the percentage change for a period of 12 months ending on the last day of a month chosen by the board in each year, and that percentage shall be applied to the average weekly earnings of the worker under review under subsection (1) on the anniversary date of the commencement of his loss of earnings because of the accident in the year following the year in which the calculation is made.

**Provision for annuity on retirement**

48.(1) Where compensation in respect of an accident occurring after 1982, is payable to a worker for a period exceeding 24 consecutive months, the board shall set aside an amount equal to 10 percent of the compensation as it is paid, and that amount, together with accrued interest, shall be used to provide an annuity for the worker at age 65.

(2) The amount set aside pursuant to subsection (1) may be set aside in the reserves of the board or, on the request of the worker, it may be paid into an established superannuation plan.

(3) Where the annuity provided to a worker under subsection (1) is less than an amount fixed by order of the board, the board shall, in lieu of that annuity, pay to the worker the accumulated capital and interest.

(4) Where the board determines that the effect of the injury on the pension of the worker is greater than is recognized by the payments under subsection (1) and that it causes undue hardship to the worker, the board may supplement the income of that worker upon his attaining the age of 65 years to increase the amount of his income to the minimum amount of compensation payable at that time.

#### **Accidents occurring in 1982 or earlier**

49. Where a worker is entitled to compensation because of an accident occurring in 1982 or earlier, his entitlement to compensation and the amount of compensation to which he is entitled shall be determined pursuant to this Act as it was in force before January 1, 1983.

#### **Canada Pension Plan**

50. Notwithstanding any other provision of this Act, any compensation payable by the board under this Act to a worker in respect of an accident occurring after 1982 shall be reduced by the amount that person is entitled to receive in respect of the injury under the Canada Pension Plan.

#### **Compensation for worker injured doing rescue work**

51. Notwithstanding any provision of this Act, where a worker is entitled to compensation because of disability that results from an accident that occurs while he is doing rescue work in or on the premises of a mine or other industry to which this Act applies for the purpose of saving human life after an explosion, fire or other catastrophe, the compensation payable to him shall be calculated on the basis of 100 percent of his average weekly earnings or of the average weekly earnings of workers employed at work similar to that at which and in the same occupation as he was employed immediately before the accident, as the case may be.

#### **Computation of average weekly earnings**

52.(1) For the purpose of sections 44, 46 and 47, but subject to section 53, the average weekly earnings of a worker shall be determined on the basis of the earnings of the worker, during the 12 months preceding the accident, from employment by his employer in any industry, except that where

- (a) such earnings are not ascertainable, or
- (b) the short period of time that the worker was in the employer's employment before the accident occurred or the casual nature of such employment makes it impracticable to determine the worker's actual average weekly earnings during the preceding 12 months,

his average weekly earnings may be determined on the basis of the earnings, during the 12 months preceding the accident, of a person employed in employment of the same kind and at the same grade as the worker was employed at the time the accident occurred.

(2) Where it is not possible to determine a worker's average weekly earnings in accordance with subsection (1), the actual weekly earnings of the worker at the time of the accident shall be deemed to be the average weekly earnings of the worker for the purpose of sections 44, 46 and 47.

### **Maximum average weekly earnings and maximum compensation**

53.(1) Where average weekly earnings are required to be determined for the purposes of sections 43 or 51, they shall be determined in the manner best calculated to give the actual average rate of earnings per week, but where the average rate of earnings per week so determined would, when projected on an annual basis, result in a rate of remuneration that exceeds the maximum wage rate, the average weekly earnings shall be deemed to be the rate of remuneration per week that would, when projected on an annual basis, result in the maximum wage rate.

(2) Where a worker is entitled to be or is being paid compensation for a permanent or temporary disability, he is not entitled to compensation in respect of any further or other disability in any amount that would cause his aggregate compensation to exceed the maximum amount payable to a worker for permanent total disability.

(3) Where a worker has been paid a lump sum in lieu of periodic payments of compensation that otherwise would have been paid to him, he shall for the purpose of subsection (2) be deemed to be still in receipt of the periodic payments.

(4) Where a worker who is injured in an accident was under concurrent contracts of service with two or more employers during any period required to be taken into account in determining his average weekly earnings for the purpose of this Act and, during such period, worked for more than one such employer, his average weekly earnings shall be determined as though his earnings from all such employers during that period were earnings from his employment with the employer for whom he was working at the time of the accident.

(5) Where an employer customarily pays to a worker an amount in respect of special expenses incurred by the worker by reason of the nature of his employment with the employer, any amount so paid shall not be included as part of the worker's earnings for the purposes of determining the amount of compensation to which the worker is entitled.

(6) Where the average weekly earnings of a learner are required to be determined for the purposes of sections 43 or 51, he shall be deemed to have been employed at all relevant times as a learner in the work that he was learning and his average weekly earnings shall be determined on the basis of the earnings of a worker employed as a learner in such work.

### **Minimum compensation for total disability**

54. Where a worker is entitled to compensation in respect of permanent or temporary total disability, the minimum amount of compensation to which he is entitled is an amount not less than the lesser of

- (a) \$50 per week, or
- (b) his average weekly earnings.

**Commutation of compensation payments**

55.(1) Where it is advisable that payments of compensation be made periodically instead of weekly to the worker or dependant, as the case may be, the board may commute the weekly payments to such periodic payments and thereafter the payment of compensation shall be made on the commuted basis.

(2) Where a worker or a dependant of a worker who is entitled to be paid compensation on a weekly basis is not a resident of or ceases to reside in the Yukon, the board may commute the weekly payment of compensation to such other periodic basis as it deems fit and thereafter payments of compensation to the worker or the dependant, as the case may be, shall be made on the commuted basis.

(3) Notwithstanding any provision of the Act, where a worker or a dependant of a worker who is entitled to be paid compensation at a rate not less than \$20 per month gives written notice to the board that he desires that the compensation payable to him be paid periodically, the compensation payable to him shall be commuted to a periodic basis and thereafter shall be paid to him on that basis.

**Payment where worker under legal disability**

56.(1) Where a worker who is entitled to be paid compensation is under the age of 19 years or under other legal disability, the compensation may be paid to him or may be applied for his benefit in such manner as the board considers to be to the worker's greatest advantage.

(2) Where a worker who is entitled to compensation as a result of an accident was under 19 years of age at the time of the accident, the amount of compensation to which he is entitled shall, for any period that he is entitled to compensation after attaining the age of 19 years, be determined on the basis of earnings, at the time the accident occurred, of a worker not less than 19 years of age employed in employment the same as or similar to the employment of the worker at the time of the accident.

**Allowances from employer**

57.(1) In fixing the amount of compensation, regard shall be had to any payment allowance or benefit that a worker receives from his employer in respect of the period of his disability, including any pension, gratuity or other allowance provided wholly at the expense of the employer, and any sum deducted under this section from the compensation otherwise payable may be paid to the employer out of the compensation fund.

(2) Where such a payment, allowance or benefit has been charged against a worker for repayment to his employer, whether such worker is on social assistance or otherwise, such payments of compensation as are made by the board to the employer shall be credited by the employer to the amount so charged.

**Compensation for silicosis**

58.(1) Notwithstanding any provision of this Act, no worker or dependant of a worker is entitled to compensation in respect of the disability or death of the worker as a result of an accident caused by silicosis unless

- (a) in the opinion of the board, the worker had, in his employment in the Yukon that preceded such disability or death, been exposed to dust containing silica for a period of or for periods totalling not less than two years, or
- (b) it appears to the board that the worker was not exposed to dust containing silica in any employment of the worker out of the Yukon or that his exposure to dust containing silica in employment out of the Yukon did not contribute substantially to his disability or death.

(2) Where compensation is payable to a worker or a dependant of a worker in respect of the disability or death of the worker as a result of an accident caused by silicosis and the worker was, before the accident occurred, employed in the Yukon by more than one employer in employment that exposed him to dust containing silica, the board may direct that the costs of the claim chargeable to each employer shall be that portion of the compensation that the number of days he was so exposed while employed by each employer bears to the total number of days that he was so exposed while employed in the Yukon.

#### **Agreements for cost sharing respecting silicosis**

59. Any provision of this Act limiting or restricting the right of a worker or dependant to compensation for disability or death due to silicosis shall not prevent the payment of a share of the cost of compensation where

- (a) the worker has been exposed to dust containing silica in Canada for a period or periods aggregating two years preceding his disablement, or for any lesser period if he was not exposed to dust containing silica anywhere except in Canada,
- (b) the worker was free from tuberculosis and silicosis before being first exposed to silica dust in Canada,
- (c) the disability or death of the worker is due to silicosis resulting from his exposure as a worker to silica dust in Canada, and
- (d) there is an agreement between the Government of the Yukon and
  - (i) Canada,
  - (ii) a province, or
  - (iii) one or more workers compensation boards in Canada,

whereby the cost of compensation is to be shared equitably among the provinces where the exposure occurred.

#### **Medical aid**

60.(1) The board, at the time of the injury and thereafter during the disability, may furnish or provide for the injured worker such medical aid as it deems necessary to diagnose, cure and give relief from the effects of the injury, and the board may make rules and regulations with respect to the furnishing of and the payment for medical aid to injured workers.

(2) All question as to the necessity, character and sufficiency of any medical aid furnished or to be furnished shall be determined by the board.

(3) When the board provides or is liable to pay for medical or other remedial attention as provided in this section, the amount payable to any person in respect of medical or other remedial attention or any attention shall be such as the board shall direct, and no action lies against the board for or in respect of any amount greater than that fixed by it nor in any event

against the injured worker, his employer or any other person in respect of such attention, except, however, that when the board provides or is liable to pay for hospital services, the amount shall be at such rates as have been mutually agreed upon by the board and the hospital authority.

(4) Where a worker is rendered helpless through permanent total disability, the board may provide such other or additional treatment services or attendance as may be necessary as a result of the injury.

(5) Where, under the direction of the board, a worker is receiving medical aid at a place other than that in which he ordinarily resides and does not receive board and lodging from the employer or at the employer's expense, the board may make to him a per diem subsistence allowance as may be determined by the board.

(6) The board may contract with medical practitioners, nurses, hospitals and other institutions for the provision of medical aid.

**Emergency transportation**

61.(1) Where any worker entitled to be paid compensation under this Act suffers injury by accident arising out of and in the course of his employment, the employer of that worker shall, where conveyance of the worker is necessary,

- (a) immediately provide the worker with transportation to such place as his condition requires him to be taken, including
  - (i) a hospital,
  - (ii) the office of a medical practitioner, or
  - (iii) the home of the worker, and
- (b) subsequently provide the worker with transportation to such place as, in the opinion of the board, the condition of the worker requires him to be sent.

(2) Where an employer fails to provide transportation for an injured worker as required under subsection (1), the board may authorize from and out of the compensation fund the payment of such expenses as were necessarily incurred with respect to the conveyance of the injured worker, and the employer is liable to pay to the board the amount so paid, the repayment of which may be enforced in the same manner as the payment of an assessment may be enforced.

**COMPENSATION FUND**

**Formation and use of the fund**

62.(1) There shall be an account within the Yukon Consolidated Revenue Fund to be called the compensation fund provided by contributions to be made by all employers in the manner provided in this Act.

(2) From and out of the compensation fund there may be paid all expenses incurred in the administration of this Act including, without limiting the generality of the foregoing,

- (a) all compensation payable in respect of accidents,
- (b) the purchase or rental of land, buildings or equipment required for the administration of this Act and the cost of maintaining such land, buildings or equipment, including insurance thereon,

- (c) the cost of advertising or carrying out safety educational programs,
- (d) the remuneration of persons appointed for the administration of this Act and the payment of their necessary travel and removal expenses,
- (e) the employer's share of fringe benefits and other assessments in respect of the persons referred to in paragraph (d),
- (f) the cost of printing notices, forms and other stationery required for the purposes of this Act, and
- (g) the payment of such expenses as the Executive Council Member deems necessary respecting the administration of this Act.

(3) No funds shall be paid or lent out of the compensation fund except as expressly provided by this Act.

(4) Except as provided under subsection 19(4), no legal costs or expenses incurred by any person other than the board in the conduct of any proceedings before, or in the making of representations to, a review committee or the board shall be paid out of the compensation fund.

(5) The fund is a trust fund within the meaning of the Financial Administration Act, and contributions under this Act and the income of the fund are trust money within the meaning of the Financial Administration Act.

(6) The board may delete from the accounts in whole or in part any obligation or debt due to the compensation fund that does not exceed \$1,000.

(7) The obligations or debts deleted from the accounts under this section during any year shall be reported in the accounts for that year.

#### **Advance of compensation out of Y.C.R.F**

**63.** Where at any time there is not money available in the compensation fund for payment of the compensation that has become due, the Commissioner in Executive Council may direct that the compensation be advanced out of the Yukon Consolidated Revenue Fund at a rate of interest determined by the Commissioner in Executive Council and, in that case, the amount advanced and any interest thereon shall be repaid after the next assessment.

#### **Employers' experience accounts**

**64.(1)** Separate experience accounts shall be maintained of assessments levied and costs of claims chargeable in respect of each employer, but for the purpose of paying compensation the compensation fund shall, nevertheless, be deemed one and indivisible.

(2) Where a worker has been injured, or killed owing, in the board's opinion, wholly or partially to the negligence of an employer who is not the employer of that worker, or wholly or partially to the negligence of a worker of that employer, the costs of any claim respecting that worker suffering injury or death shall be included in the experience account of that employer in proportion to such degree of negligence as the board attributes to that employer or his worker and, where that employer is classified, may be charged to the class in which that employer is included in the same manner as if those costs had been incurred with respect to a claim by a worker of that employer.

(3) Costs of claims in respect of an employer shall include the capital costs of pensions awarded as well as amounts expended in connection with compensation and medical aid.

#### **Financial Administration Act**

**65.**(1) Notwithstanding any other provision of this Act, the receipt and payment of money by the board is subject to the Financial Administration Act; all money received or spent by the board shall be deemed to be received or spent by it on behalf of the Government of the Yukon; all money owing to the board shall be deemed to be owed to it in its capacity as a representative of the Government of the Yukon; and all proceedings taken by the board for the collection of any money due to the board under this Act shall be deemed to be taken by the board for and on behalf of the Government of the Yukon.

(2) Notwithstanding any other provision of this Act, the investment of money by the board is subject to the Financial Administration Act, except section 39 of that Act.

#### **Investments**

**66.**(1) Subject to section 65 and the regulations, the board may invest any funds arising under any provisions of this Act or under its control in any securities authorized for the investment of trust funds, and may sell and dispose of any such securities and reinvest the proceeds of such sale in securities authorized as aforesaid, or use such proceeds for any of the purposes authorized by this Act.

(2) Notwithstanding subsection (1), the board may authorize the Executive Council Member responsible for the Department of Finance to make and manage investments on behalf of the board.

(3) Where investments are made or managed by the Executive Council Member under subsection (2) on behalf of the board,

- (a) investments may be made in any investment permitted by the Trustee Act,
- (b) no net losses resulting from the investments, and no costs of making or managing the investments, shall be charged to the principal of the compensation fund,
- (c) reasonable costs of making or managing the investments may be charged to the net income or profit of the investments, and
- (d) all other interest, sale proceeds and other income resulting from the investments shall be credited to the compensation fund.

#### **Annual report and audit**

**67.**(1) The board shall cause an actuarial evaluation of the compensation fund to be performed at least once every three years by a qualified actuary, and the report of the actuary shall be included in the next report of the board under subsection 9(9).

(2) The accounts and financial transactions of the compensation fund administered by the board are subject to the audit of the Auditor General of Canada, and for that purpose he is entitled

- (a) to have access to all records, documents, books, accounts and vouchers of the board, and
- (b) to require from members and officers of the board such information as he deems necessary.



(3) The Auditor General of Canada shall report annually to the Executive Council Member the results of his examination of the accounts and financial statements of the compensation fund administered by the board, and the report shall state whether, in his opinion,

- (a) the financial statements represent fairly the financial position of the compensation fund at the end of the financial year and the results of its operations for that year in accordance with the accounting policies of the board applied on a basis consistent with that of the immediately preceding year,
- (b) proper books of account have been kept and the financial statements are in agreement with the books of account, and
- (c) the transactions of the board that have come under his notice are within the powers of the board under this Act or any other Act that applies to the board.

(4) In his report the Auditor General shall call attention to any matter within the scope of his examination that in his opinion should be brought to the attention of the Legislative Assembly.

(5) The Auditor General from time to time may make to the board or the Executive Council Member such other reports as he considers necessary or as the Executive Council Member may require.

(6) The annual report of the Auditor General shall be included in the report referred to in subsection 9(9) next laid before the Legislative Assembly.

## ASSESSMENT

### Assessments and levies upon employers

**68.** The board shall from time-to-time assess and levy upon the employers in each of the classes and subclasses such percentage of the payroll or such other rate, or such specific sum as, allowing for any surplus or deficit in the class, the board may require

- (a) to provide and pay the expenses of the administration of this Act, including mine rescue and first aid work, and of such other acts, duties and services as it may be required to administer or perform,
- (b) to provide and pay all amounts payable from the compensation fund,
- (c) to provide and maintain capitalized reserves sufficient to pay all compensation payable in future years in respect of such accidents as have occurred or might occur during the period for which the assessment has been made,
- (d) to provide and maintain a disaster reserve to meet the loss arising or likely to arise from disaster or other circumstances that would unfairly burden the employers in any class,
- (e) to provide and maintain a silicosis reserve for the payment of all money that becomes payable by the board for or in respect of silicosis, by a charge upon, as an accident cost, such of the classes or subclasses, and in such amounts, as the board may determine,
- (f) to provide and maintain a rehabilitation reserve for the payment of the expenses incurred by the board in the rehabilitation of injured workers,
- (g) to provide and maintain other reserves to ensure as nearly as possible within each class uniform assessments from year to year,

- (h) to provide and maintain a reserve for the payment of such part of the cost of claims of workers suffering enhanced disabilities because of similar or other disabilities previously suffered as is due to such previous disabilities, and
- (i) to provide and maintain any other reserves necessary for the administration of this Act.

**Assessment procedure**

69.(1) Assessment may be made in such manner and form and by such procedure as may be prescribed, and may be general as applicable to any class or subclass, or special as applicable to any industry or part or department of an industry.

(2) Payments on account of their respective assessments shall, in the first instance, be made by employers in amounts determinable by and based upon the estimates

- (a) furnished by them respectively under section 69, or
- (b) made by the board under section 71,

or such payments shall be made otherwise as the board may direct.

(3) Where the assessment is based upon the payroll of the employer and the payroll shows in any one year earnings in respect of any worker in excess of the maximum wage rate for that year, every such excess shall be deducted from the amount of the payroll before it is used as a basis for assessment.

(4) It is not necessary that assessments upon employers in a class or subclass be uniform, but they may be fixed, graded or varied by the board in relation to the hazard or other circumstances of the operations of the employer.

(5) Where publication of a notice containing a statement of percentages and rates determined and fixed by the board and of the industries to which they respectively apply is made, such publication constitutes an assessment upon, and notice thereof to, each employer in an industry named in the notice for the year or other period named therein, computed on the payroll of such employer at the percentage or rate set out in the notice as applicable to such industry.

(6) All assessments made under this Act shall be deemed to be due as at January 1 in the year in which they are made, except that without affecting the foregoing provision the board may direct payment of assessments by instalments or otherwise.

(7) Unless satisfactory evidence of an employer's actual payroll for any period is submitted to or obtained by the board, the payroll estimated by the employer under section 70 or by the board under section 72 as the case may be, shall be deemed to be the actual payroll of the employer.

(8) Upon the inclusion of any volunteer employment within the scope of this Act pursuant to section 2, the employers therein are liable to pay and shall pay to the board the appropriate assessment in respect of such industry in accordance with the rate of assessment applicable thereto for the balance or any part of the then current year.

(9) Notwithstanding any provision of this Act respecting notice to employers, payrolls or estimates of payrolls, employers are liable to pay to the board with or without demand or notice from the board the full amount of every assessment assessed against them under the provisions of this Act.

(10) Every employer shall pay into the compensation fund such assessments as may be made by the board, and if any assessment or any part thereof is not fully paid in accordance with the terms of the assessment, the board has a right of action against the employer in respect of any amount unpaid, and is entitled to the costs of the action.

(11) The board may, by order, adopt a system of merit rating.

(12) If an assessment or a special assessment is not paid at the time when it becomes payable, the defaulting employer is liable to pay and shall pay as a penalty for his default such percentage upon the amount unpaid as may be prescribed.

(13) Where, in his statement to the board of the amount or estimated amount he will expend for wages for or during the then current year, an employer knowingly understates or underestimates the same, he is liable to pay and shall pay as a penalty for such understatement or underestimate, such percentage upon the amount thereof as may be prescribed.

(14) Where the ways, works, machinery and appliances in any industry conform to modern standards in such manner as to reduce the hazard of accidents to minimum, and all proper precautions are being taken by the employer for the prevention of accidents, and where the accident record of the employer has, in fact, been consistently good, the board may reduce the amount of any contribution to the compensation fund for which the employer is liable.

(15) If in any year or other fiscal period, as determined by the board, the costs of claims chargeable to the experience account of any employer are in excess of a sum equal to the amount of the ordinary assessment against that employer for the same year increased by five percent, the board may assess and levy upon the employer for that year a super-assessment of such amount as the board may direct, having regard to the amount of the excess and the extent of the amounts previously chargeable at any time against that employer's experience account.

(16) The amount of a super-assessment shall not exceed 33  $\frac{1}{3}$  percent of the ordinary assessment.

(17) In cases where work is performed for an employer by and under one or more contracts and the principal and contractor so agree, the board may for the purposes of merit rating or super-assessment or otherwise consider and treat the whole of such work as one employment and assess such employer accordingly.

#### **Minimum assessment levy**

70.(1) No assessment of less than \$25 shall be levied in respect of any industry to which this Act applies.

(2) Where the worker or any group of workers of any employer employs a worker, the employer shall pay to the board an amount sufficient to pay the assessment in respect of the worker so employed and may deduct such amount from the wages of the said worker or group of workers.

**Statement of wages and of future wages**

71. Subject to the regulations, every employer shall, not later than the last day of February in each year or at such other time or times as may be required, prepare and transmit to the board a statement

- (a) of the total amount of all wages earned by all his workers during the year then last past, or any part thereof specified by the board,
- (b) of the amount of that he estimates he will expend for wages during the then current year or any part thereof specified by the board, and
- (c) such additional information as the board may require,

and such statement shall be verified by a statutory declaration or other form of certificate, as may be prescribed, of the employer or the manager of a business, or where the employer is a corporation, of an officer of the corporation having a personal knowledge of the matter to which the declaration or other form of certificate relates.

**Records of wages and operations**

72.(1) Every employer shall keep within the Yukon in such form and with such detail as may be required for the purposes of this Act a careful and accurate account of all wages and earnings of his employees and of such other features and particulars of his operations as the board may require.

(2) Any person who might be an employer under the provisions of this Act, shall on request of the board at any time furnish and deliver to him a statement signed by it giving full particulars of the different classes of work carried on and such particulars as may be required by the board concerning his payroll or other feature or features of his business or industry.

(3) Where the business of the employer embraces more than one branch of business or class of industry, the board may require separate statements to be made as to each branch or class of industry and such statements shall be made, verified and transmitted as provided by section 70.

(4) The board and any person authorized by it for the purpose has, for any purpose that the board deems necessary for the administration of this Act, the right at all reasonable hours to enter into the establishment, the premises connected with the establishment, and every part of it, of any employer or any other person who, in the opinion of the board, is or might be an employer.

(5) The board or any person authorized by it has the right to examine the books and accounts of every employer, and to make such other inquiry as it deems necessary, for the purpose of ascertaining

- (a) whether any statement furnished under any of the provisions of this Act is an accurate statement of the matters that are required to be stated therein,
- (b) the amount of the payroll, or
- (c) whether any industry or person is within the scope of this Act.

(6) For the purpose of any examination or inquiry, the board or person authorized to make the examination or inquiry may give to the employer or his agent notice in writing requiring him to bring and produce at a place and time to be mentioned in the notice, which time shall be at least ten days after the giving of the notice, all documents, writings, books, deeds and papers

in the possession, custody or power of the employer and in any way relating to or concerning the subject-matter of the examination or inquiry referred to in the notice.

(7) Every employer and every agent of the employer named in and served with any such notice shall produce at the time and place required all such documents, writings, books, deeds and papers according to the tenor of the notice.

(8) For the purpose of any such examination or inquiry the board or any person so authorized by it has all the powers of a board of inquiry appointed pursuant to the Public Inquiries Act.

(9) Every person authorized by the board to make an examination or inquiry under this section has power and authority to require and to take affidavits, affirmations, or declarations as to any matter with which the examination or inquiry is concerned, and to take statutory declarations required under subsection 70(1) and in all such cases to administer oaths, affirmations, and declarations and certify to the same having been made.

(10) An employer and every other person who obstructs or hinders the making of an examination or inquiry mentioned in this section or who refuses to permit it to be made or who neglects or refuses to produce such documents, writings, books, deeds and papers at the time and place stated in the notice mentioned in subsection (6) commits an offence.

(11) No person authorized to make an examination or inquiry under this Act shall divulge or allow to be divulged, except in the performance of his duties or under authority of the board, any information obtained by him or that has come to his knowledge in making or in connection with an examination or inquiry under this Act.

(12) Every person who violates the provisions of subsection (11) commits an offence under this Act.

(13) If a statement is found to be incorrect, the assessment shall be made on the true amount of the payroll or other basis of assessment as the board may require as ascertained by the examination or inquiry, or if an assessment has been made against an employer on the basis of his payroll or other basis of assessment as shown by the statement, the employer shall pay to the board the difference between the amount for which he was assessed and the amount for which he should have been assessed.

(14) No person shall divulge information respecting the business of an employer or a worker obtained by him pursuant to this Act unless it is divulged under the authority of the board to the persons directly concerned or to agencies or departments of the Government of Canada or of the Government of any province.

#### **Basis of assessment where statement not duly furnished**

73.(1) If an employer does not make and transmit to the board the required statement within the required time, or if such statement in the opinion of the board does not represent the probable amount of the payroll or other basis of assessment of the employer, the board may, in addition to any other remedy provided by this Act, base any assessment or supplementary

assessment thereafter made upon him on such sum as in its opinion is the probable amount of the payroll or other basis of assessment of the employer, and the employer is bound thereby.

(2) If it is afterwards ascertained that such amount is different from the actual amount of the payroll or other basis of assessment, the employer or the board is liable to pay to the other the difference between the amount for which the employer was assessed and the amount for which he should have been assessed on the basis of his payroll or other basis of assessment.

(3) Whenever an employer fails to furnish to the board within the required time a statement of wages, whether estimated or actual, as required by any provision of this Act or of any regulation hereunder, he is liable to pay and shall pay as a penalty for such default such percentage upon the amount of his assessment as may be prescribed.

**Liability of employer not assessed**

74. If for any reason an employer liable to assessment is not assessed, he is nevertheless liable to pay the board the amount for which he should have been assessed, and payment of that amount may be enforced in the same manner as the payment of an assessment may be enforced.

**Continuing liability to assessment**

75. Notwithstanding that the deficiency arising from a default in the payment of the whole or part of any assessment has been made up by a special assessment, the defaulting employer continues liable to pay to the board the amount of every assessment made upon him or so much of it as remains unpaid.

**Employer commencing or recommencing an industry**

76.(1) When any industry coming under the provisions of this Act is established, commenced or recommenced, the employer shall within ten days notify the board of the fact and furnish to the board an estimate of the probable amount of his payroll for the remainder of the year or such other information as the board may require.

(2) Such estimate and information shall be verified by a statutory declaration or a form of certificate, as may be prescribed.

(3) The employer shall pay to the board a sum equal to that for which he would have been liable if his industry had been established or commenced before the last assessment was made.

(4) The board has the like powers and is entitled to the like remedies for enforcing payment of the sum payable by the employer under this section as the board possesses or is entitled to in respect of assessments.

**Security for payment of assessment**

77.(1) The board may at any time require an employer to furnish to it security in such amount as is sufficient to provide for the assessments that are or might be levied against him by the board for or in respect of the then current year.

(2) Within 15 days after service upon him of notice of such requirement, the employer shall lodge with the board security, in the amount and of the class or character stated in the notice, for the payment of the assessments levied or to be levied against him by the board for or during the then current year.

(3) Where it appears to the board at any time that the amount of the security furnished by an employer has become inadequate by reason of an increase of employment by the employer, the board may require the employer to lodge with it additional security and may prescribe the amount thereof, and the employer within 15 days after notice to him of such requirement shall lodge with the board additional security in the amount and of the class or character stated in the notice.

(4) The security shall consist of cash, a certified cheque or a guarantee bond of a bonding company acceptable to the board.

(5) If default is made in the payment of any assessment that is payable to the board by such employer and is levied in the period for which the security is given, the board may proceed to realize upon any or all of the securities lodged with it under the provisions of this section, and may take such proceedings and do all such acts and things as it deems necessary, having regard to the nature of the security, to realize it.

(6) The proceeds so realized shall be applied by the board

- (a) in payment of the liability of the employer to the board,
- (b) in payment of the costs and expenses of the board in realizing the securities, and
- (c) in payment of the balance, if any, to the persons legally entitled thereto.

(7) If default is made by the employer in furnishing any security that he is required to furnish under any of the provisions of this section, or if default is made in the payment of any assessments due the board by the employer, then and in each such case the board may order the employer to cease to employ workers until such time as the board determines by subsequent order, and notice of any such order shall be given to the employer.

(8) Every employer who being served with any such order continues to employ workers in an industry to which this Act applies commits an offence and is liable on summary conviction to a fine of not exceeding \$100 a day for each day that his failure or default continues, and in default of payment to imprisonment for a term not exceeding six months.

(9) A notice or order issued by the board under this section may be served upon the person for whom it is intended by double registered mail, and if and when the post office receipt for the letter containing such document purporting to be signed by such person is received by the board, such service shall be deemed to be good and sufficient service of such notice or order.

### **Liability to assessment**

**78.(1)** Where any work is performed by a contractor for any person (in this section called the principal)

- (a) both the principal and the contractor are liable for the amount of any assessment relating to that work, and

- (b) the assessment may be collected from either of them, and partly from one or partly from the other,

but in the absence of any term in the contract to the contrary, the contractor is as between himself and the principal, liable for the amount of the assessment.

(2) Where any work is performed under a subcontract,

- (a) the principal, the contractor and the subcontractor are each liable for the amount of any assessment relating to that work, and
- (b) the assessment may be collected from any of them or partly from one and partly from the other or others,

but in the absence of any term in the subcontract to the contrary, the subcontractor is as between himself and the others, liable for the amount of the assessment.

(3) A principal may withhold from any money payable to a contractor the amount which the principal is liable to pay under this section and pay the amount to the board, and as between the principal, the contractor and the subcontractor the payment shall be deemed to be a payment on the contract or subcontract or both, as the nature of the payment requires.

(4) A contractor may withhold from any money payable to a subcontractor the amount which the contractor is liable to pay with respect to the subcontractor under this section and pay that amount to the board, and as between the contractor and the subcontractor the payment shall be deemed to be a payment on the subcontract.

#### **Collection of assessments by instalments**

79. Assessments may wherever it is deemed expedient be collected in instalments, and where it appears that the funds in any class are sufficient for the time being any instalment may be abated or its collection deferred.

#### **Liability of employers**

80. Employers to whom this Act applies are liable to contribute to the compensation fund as herein provided.

#### **Additional penalty for defaults by employer**

81.(1) Any employer who refuses or neglects to make or transmit any payroll return or other statement required to be furnished by him under any of the provisions of this Act or any regulation or order made hereunder, or who refuses or neglects to pay any assessment, or the provisional amount of any assessment or any instalment or part thereof shall, in addition to any penalty or other liability to which he may be subject, pay to the board a sum of money, not exceeding one-half of the amount of compensation payable and not exceeding in any case \$2,000 in respect of any accident to a worker in his employ that happens during the period of the default, and the payment of the amount may be enforced in the same manner as the payment of an assessment may be enforced.

(2) The board, if satisfied that the default was excusable, may in any case relieve the employer in whole or in part from liability under this section.

(3) Where any employer makes default in the payment of an assessment and an execution, issued upon a judgment entered or certificate filed under section 81 with respect to the assessment, is returned with a certificate from the courts that he was unable to wholly satisfy



the execution, and where the judgment debtor continues to carry on an industry within the scope of this Act in which workers are employed, any judge of the Supreme Court, upon an application made by the board by motion in chambers, may restrain the judgment debtor from carrying on any industry within the scope of this Act until the amount due on the execution of all assessments made by the board and the costs of the application are paid.

### **Enforcement of payment of assessment**

82.(1) Where default is made in the payment of any assessment or any special assessment or any part thereof or any other money due to the board, the board may issue its certificate stating that the assessment was made, the amount remaining unpaid on account of it and the person by whom it was payable, and directing the payment of the amount by such person.

(2) Such certificate or a copy of it certified by the executive director to be a true copy may be filed with the clerk of the Supreme Court and when so filed it becomes an order of the Supreme Court and may be enforced as a judgment of the court.

(3) The board has the like power and is entitled to the like remedies to enforce payment of any sum that any employer, worker or other person is required to pay to the board under any of the provisions of this Act as it possesses or is entitled to in respect of assessments.

(4) Notwithstanding anything in any other Act, the amount due to the board by an employer upon any assessment made under this Act or in respect of any amount that the employer is required to pay to the board under any of its provisions or upon any judgment for that assessment or amount

- (a) is a charge upon the property or proceeds of property of the employer, including money payable to, for or on account of the employer, within the Yukon, and
- (b) has priority over all assignments by way of security, debts, liens, charges, mortgages, or other encumbrances whatsoever, whenever created or to be created, except wages due to workers by their employer in cases where the exercise of the priority would deprive the workers of their wages.

(5) In the event of the transfer or sale of any business or any industry to which this Act applies or of the stock or equipment in bulk used in connection with any such business or industry, it is the duty of the purchaser, before paying any part of the purchase price or giving the vendor any security therefor, to demand and secure from the vendor, and it is the duty of the vendor to furnish to the purchaser, a certificate by the board that it has no claim in respect of the business or industry or stock or equipment in bulk.

(6) If the vendor or transferor has not furnished such certificate, the purchaser or transferee of the business or industry or stock or equipment in bulk is liable to the board and indebted to it for a sum equal to the money due to it by the vendor or transferor.

### **Collection of assessment by distress**

83.(1) If any person fails to pay any assessment or part thereof or any money that he is liable to pay within the time provided for such payment, the sheriff, deputy sheriff or assistant sheriff may collect the same with costs by distress of the goods and chattels of such person.

(2) Where a distress is made under this section the provisions of the Distress Act and sections 20 to 31 of the Landlord and Tenant Act shall apply mutatis mutandis as if the money due was rent due to the board.

**Priority of assessment in cases of winding-up etc.**

84. Subject to any statute of the Parliament of Canada, there shall be included among the debts that, under the Trustee Act, the Business Corporations Act or any other Act of the Yukon, are in the distribution of the property in the case of an assignment or death or the assets of a corporation being wound up under the said Acts or any of them or otherwise, to be paid in priority to all other debts, the amount of any assessment or other debt due to the board, the liability for which accrued before the date of the assignment or death or the commencement of the winding-up, as the case may be.

**Miscellaneous provisions**

85.(1) Where an employer ceases to be an employer within the meaning of this Act, he shall within ten days of so ceasing notify the board in writing, and shall at the same time transmit a statement of the total amount of wages earned by all his workers for the portion of the then current year during which he has continued in business.

(2) Employers shall post and keep posted in a conspicuous place upon the premises where the work performed by their workers is being carried on, and where they may be readily seen by such workers, such notices as the board by order may from time-to-time require to be posted.

(3) Any worker may before entering into any employment to which this Act applies satisfy himself that his employer has paid his assessment and that it is paid thereafter when due.

(4) No employer shall keep or have in his employment any worker unless the employer has complied with the provisions of this Act, and where an employer is in default of payment of any assessment or part thereof or any other money due by him to the board and default has continued for one month, the board may order the employer to discontinue and thereafter refrain from employing any worker or workers, and the employer shall not thereafter employ any worker or workers until he pays to the board all money due to it by the employer.

(5) All books, returns, notices, reports, forms or other documents or papers and copies thereof required to be kept posted or forwarded in accordance with the provisions of this Act or regulations made hereunder, shall be in the approved form.

(6) Any order, notice or other document issued pursuant to this Act or which is required to be served pursuant to this Act may be served upon the person for whom it is intended personally or by double registered mail and when served by registered mail if the post office receipt for the letter containing such order, notice or other document purporting to be signed by the person for whom it is intended or another person on his behalf is received by the board, such service shall be deemed to be good and sufficient service of the order, notice or other document, and the order, notice or other document shall be deemed to be served on the date that the receipt purports to be signed.

(7) An order, notice or other document, may be served on a corporation by leaving it with an adult person at the registered office of the corporation or where the corporation has no registered office at the last known registered office of the corporation, or by being served upon any officer or manager of the corporation or may be served by double registered mail addressed to the registered office of the corporation or where the corporation has no registered office to the last known registered office of the corporation or addressed to any officer or manager of the corporation and when served by registered mail if the post office receipt for the letter containing such order, notice or other document purporting to be signed by the office manager or any other person on behalf of the corporation for whom it was intended is received by the board, such service shall be deemed to be good and sufficient service of the order, notice or other document and the order, notice or other document shall be deemed to be served on the date that the receipt purports to be signed.

### **Offences and penalties**

86.(1) Where an offence under this Act is committed by a corporation or any officer, director, manager, secretary, partner or of any official of the corporation apparently in charge of a project he, as well as the corporation, commits an offence and he is liable on summary conviction to a sentence not exceeding six months or a fine not exceeding \$1,000, or to both fine and imprisonment.

(2) Where a complaint is laid against a person who is a corporation a summons may be issued requiring an officer, director, manager, secretary, partner or of any official of the corporation apparently in charge of a project who is named therein to appear in court to answer the charge on behalf of the corporation and to attend in court from day-to-day until the trial or hearing has been completed.

(3) Any person who violates any of the provisions of this Act or any regulation or order made under this Act commits an offence and, where no other penalty is provided, is liable on summary conviction to a fine not exceeding \$500 and, in default of payment, to imprisonment for a term not exceeding three months.

(4) Any person who is convicted of violating any of the provisions of this Act or of any regulation or order made hereunder and who fails after the conviction to comply with the provisions of this Act or the regulations or orders made hereunder for the breach of which he was convicted, commits an additional offence and is liable on summary conviction to a fine not exceeding \$200 a day for each day his failure or default continues, and in default of payment, to imprisonment for a term not exceeding six months.

(5) In any prosecution for a violation of any of the provisions of this Act or any regulation whereby any person is required to transmit to the board any statement or report or to pay to the board any assessment or other amount, or where it is sought to prove service of any notice, order, or other document by the board upon an employer, worker or other person, a certificate of the board certifying that the statement or report or payment has not been received by it or that the notice, order, or other document has been duly served upon the person for whom it was intended, is unless otherwise provided in this Act prima facie proof of the matters therein certified.

(6) Proceedings in respect of an offence under this Act may be instituted at any time within one year after the subject matter of the proceedings arises.

**Engagement in work not under the Act**

**87.(1)** Where an employer engaged in an industry to which this Act applies directs a worker who is working in that industry to do other work that is not in an industry to which this Act applies and the worker is injured in the course of that other work, that other work shall be deemed to be in the industry of the employer to which this Act applies and the employer shall pay to the board in respect of that other work an additional assessment equal to the full cost of the claim in respect of the injury up to a maximum of \$1,000.

(2) Any person who has control and direction of a worker and who directs him to do other work as mentioned in subsection (1) shall be deemed to have given the direction on behalf of the employer.

**Application of benefits**

**88.** Except as otherwise specially provided in this Act, the benefits provided by the provisions of this Act to workers or their dependants apply only to accidents occurring on and subsequent to the date of enactment of this Act.

**Amounts of compensation**

**89.(1)** The amounts of compensation mentioned in this Act are the amounts to be paid from the time of the coming into force of this Act until such time as the application of this section or section 47 results in a change in the amounts of compensation to be paid.

(2) The amounts of compensation mentioned in this Act at the time of its coming into force shall be deemed to have been calculated in relation to the average annual consumer price index established by Statistics Canada for the year 1982.

(3) The amounts of compensation payable in any year shall be varied from the amounts of compensation payable in the immediately preceding year in proportion to the percentage change in the level of the average annual consumer price index established each year by Statistics Canada.

(4) The board shall by order in January of each year or as early as possible thereafter establish the amount of compensation to be paid in that year.

(5) Subsection (3) applies only to compensation payable in respect of accidents occurring before 1983.

**Calculation of maximum wage rate**

**90.(1)** The board shall by order in January of each year or as early as possible thereafter, establish the amount of the maximum wage rate for that year, in accordance with subsection (2) rounding off the amount thereby calculated to the nearest thousand dollars.

(2) The amount of the maximum wage rate established by the board from time to time pursuant to subsection (1) shall be the annual earnings of a worker paid at the weekly rate established by the board as the average weekly earnings in the immediately preceding period of 12 months of workers who received compensation under this Act in respect of accidents occurring in that period.

**Regulations and board orders**

91.(1) The Commissioner in Executive Council may make regulations providing for the carrying into effect of the purposes and provisions of this Act and, without limiting the generality of the foregoing, may make regulations

- (a) prescribing anything that by this Act is to be prescribed by regulation;
- (b) prescribing such forms as he deems necessary;
- (c) with respect to the prevention of accidents and industrial diseases.

(2) The board may by order make rules consistent with this Act and the regulations relating to

- (a) the conduct of proceedings before the board;
  - (b) the making of applications to the board, including the information and evidence to be furnished by applicants;
  - (c) the establishment of forms;
  - (d) the certification or publication of orders and decisions of the board not required to be published in the Yukon Gazette under subsection 9(8);
  - (e) any other matter that reasonably is necessary or advisable for the effective and orderly performance of the duties of the board.
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# CHAPTER 181

## YUKON DEVELOPMENT CORPORATION ACT

### **Interpretation**

1. In this Act,

“board” means the board of directors under section 7;

“corporation” means the Yukon Development Corporation established by this Act.

### **Yukon Development Corporation**

2. There is hereby established a corporation to be known as the Yukon Development Corporation, which shall consist of the members of the board holding office from time to time pursuant to this Act.

### **Agent of the government**

3. The corporation is for all its purposes an agent of the Government of the Yukon and its powers may be exercised only as an agent of the Government of the Yukon.

### **Objects**

4. The objects for which the corporation is established are to participate with the private sector in the economic development of the Yukon and, in particular,

- (a) to develop and promote the development of Yukon resources on an economic and efficient basis,
- (b) to promote employment and business opportunities for the Yukon residents,
- (c) to acquire the undertakings and assets of the Northern Canada Power Commission in the Yukon, and to enter into arrangements with other electrical utilities to promote the efficiency and cost-effectiveness of electric power utility planning and operations in the Yukon, and
- (d) to carry out development policy directives issued to it by the Commissioner in Executive Council.

### **Powers**

5.(1) For the purpose of attaining its objects as set out in section 4, the corporation has the following powers:

- (a) to develop and promote the development of energy systems and the generation, production, transmission and distribution of energy in all its forms;
- (b) to exercise all of the powers of a corporation under the Business Corporations Act.

(2) The powers of the corporation may be exercised in its own name.

**Actions by or against the corporation**

6. Actions, suits, or other legal proceedings in respect of any right or obligation acquired or incurred by the corporation on behalf of the Government of the Yukon, whether in its own name or in the name of the Government of the Yukon, may be brought or taken by or against the corporation in the name of the corporation in any court of competent jurisdiction.

**Board of directors**

7.(1) The affairs of the corporation shall be conducted by a board of directors which shall be responsible to the Executive Council Member.

(2) The board shall consist of a chairperson and at least four other members appointed by the Commissioner in Executive Council.

(3) A member of the board holds office for the prescribed term, subject to removal for just cause.

(4) A member is eligible for re-appointment.

(5) To provide for continuity in the membership of the board, the members first appointed may be appointed for different terms.

(6) In the event of a vacancy in the membership of the board, the Commissioner in Executive Council may appoint a replacement for the unexpired term of the person to be replaced.

**Remuneration and expenses**

8.(1) Members of the board who are not public servants shall be paid such remuneration as may be prescribed.

(2) A member of the board may be paid transportation, accommodation and living expenses incurred in connection with the performance of his duties as a member of the board away from his ordinary place of residence but, except as otherwise provided by the regulations, the payment of such expenses shall conform as nearly as possible in all respects to the payment of such expenses for members of the public service of the Yukon.

**Procedures of the board**

9. The board shall determine its own procedures, subject to the approval of the Executive Council Member.

**Executive director**

10. Pursuant to the Public Service Commission Act, an executive director of the corporation shall be appointed who shall, under the direction of the board, be responsible for the overall administration of the affairs of the corporation.

**Employees**

11. The Public Service Commission Act applies to employees of the corporation.



**Public utility operations**

12.(1) In the conduct of any public utility operations, the corporation shall be deemed to be a public utility to which the Public Utilities Act applies, and the corporation shall in respect of its public utility operations be deemed to have the same status under the laws of the Yukon as any other person operating a public utility in the Yukon.

(2) Subsection (1) applies notwithstanding sections 41 and 42 of the Financial Administration Act.

**Yukon Development Corporation Fund**

13.(1) All money received by the corporation shall be deposited to the credit of a special account in the Yukon Consolidated Revenue Fund known as the Yukon Development Corporation Fund.

(2) The Yukon Development Corporation Fund shall be in such chartered bank as may be designated by the Commissioner in Executive Council.

(3) Subject to this Act, from and out of the Yukon Development Corporation Fund there may be paid all expenses incurred by the corporation in the conduct of its affairs under this Act.

**Fiscal year**

14. The fiscal year of the corporation shall be the period from April 1 in one year to March 31 in the next year, inclusive.

**Disposition of net revenue**

15. The Commissioner in Executive Council may make regulations requiring and providing for the transfer of all or part of the net revenue of the corporation in any fiscal year, or in any part thereof, from the Yukon Development Corporation Fund to the general account of the Yukon Consolidated Revenue Fund.

**Financial administration**

16.(1) Notwithstanding any other provision of this Act,

- (a) the receipt and payment of money by the corporation is subject to the Financial Administration Act, and
- (b) the investment of money in the corporation is subject to the Financial Administration Act, except section 39 of that Act.

(2) The corporation may authorize the Executive Council Member responsible for the Department of Finance to make and manage investments on behalf of the corporation.

(3) Where investments are made or managed by the Executive Council Member under subsection (2) on behalf of the corporation,

- (a) investments may be made in any investment permitted by the Trustee Act,
- (b) no net losses resulting from the investments, and no costs of making or managing the investments, shall be charged to the principal of any amount the Executive Council Member is authorized to invest under subsection (2),

- (c) reasonable costs of making or managing the investments made be charged to the net income or profit of the investments, and
- (d) all other interest, sale proceeds and other income resulting from the investments shall be paid to the corporation.

**Audit**

17.(1) The accounts and financial transactions of the corporation are subject to the audit of the Auditor General of Canada, and for that purpose the Auditor General is entitled

- (a) to have access to all records, documents, books, accounts and vouchers of the corporation, and
- (b) to require from officers of the corporation such information as the Auditor General deems necessary.

(2) The Auditor General shall report annually to the Executive Council Member the results of an examination of the accounts and financial statements of the corporation, and the report shall state whether, in the opinion of the Auditor General,

- (a) the financial statements represent fairly the financial position of the corporation at the end of the financial year and the results of its operations for that year in accordance with accounting policies of the corporation applied on a basis consistent with that of the immediately preceding year,
- (b) proper books of account have been kept and the financial statements are in agreement with the books of account, and
- (c) the transactions of the corporation that have come under the notice of the Auditor General are within the powers of the corporation under this Act or any other Act that applies to the corporation.

(3) In reporting, the Auditor General shall call attention to any other matter within the scope of his or her examination that in his or her opinion should be brought to the attention of the Legislative Assembly.

(4) The Auditor General from time to time may make to the corporation or the Executive Council Member such other reports as the Auditor General considers necessary or as the Executive Council Member may require.

**Grant in lieu of property taxes**

18. Any grant payable under section 2 of the Municipal Finance Act in respect of the property of the corporation shall be paid out of the Yukon Development Corporation Fund.

**Annual report**

19.(1) The board shall make a report to the Executive Council Member not later than June 30 in each year upon the activities and affairs of the corporation during the year ending on March 31 of that year.

(2) The report under subsection (1) shall include the report of the Auditor General referred to in section 17 for that year and such other information as the Executive Council Member may require.

(3) The Executive Council Member shall, within 10 days after receiving the report, table it in the Legislative Assembly if it is sitting, and otherwise the report shall be tabled within 10 days after the commencement of the next sitting of the Legislative Assembly.

**Conflict of interest**

20.(1) Subject to section 8, no member of the board shall derive any profit or financial advantage from his position as a member of the board.

(2) A member who has any pecuniary interest in or who is affected by any matter under consideration by the board shall make a declaration to the board identifying that interest before the matter is considered by the board, and shall refrain from voting on that matter.

(3) Subject to subsection (2), no member of the board is disqualified from his office by contracting with the corporation.

(4) The use or purchase of a utility or other service by a member of the board from the corporation does not constitute a contravention of subsection (1) if the utility or other service is provided to the member upon the same basis as it is supplied or made available to the public, and a member is not required to make any declaration or refrain from voting under subsection (2) in respect of any such interest.

**Regulations**

21. The Commissioner in Executive Council may make regulations for carrying the purposes and provisions of this Act into effect.

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# CHAPTER 182

## YUKON TARTAN ACT

### **Adoption of the tartan**

1. The tartan described in section 2 is adopted as and is the tartan of the Yukon, and is for all purposes designated the "the Yukon Tartan".

### **Composition of the tartan**

2.(1) The Yukon Tartan is as registered on October 24, 1984 in the books of the Lord Lyon King of Arms in Scotland and consists of the colours and proportions as follows:

- (a) 40 Blue threads (Pivot);
- (b) 2 Yellow threads;
- (c) 4 Blue threads;
- (d) 2 Yellow threads;
- (e) 8 Blue threads;
- (f) 8 Yellow threads;
- (g) 8 Green threads;
- (h) 8 White threads;
- (i) 8 Red threads;
- (j) 8 Purple threads;
- (k) 40 Blue threads (Pivot).

(2) A sample of the Yukon Tartan, in coloured textile material, is on deposit in the court of the Lord Lyon King of Arms in Scotland and in offices of the Executive Council Member; in any manufacture or representation of the Yukon Tartan the colours used shall so far as is practicable match the colours shown in the samples.

### **Prohibition**

3. No person shall sell, display, publish, advertise or hold out any thing or design as a tartan of the Yukon or as a tartan that has been confirmed, adopted, declared, officially recognized, or approved as a tartan of the Yukon, unless it is the Yukon Tartan adopted by this Act.

### **Enforcement**

4. The Executive Council Member may apply to a judge of the Supreme Court for and the judge may grant an injunction enjoining any person from continuing conduct that is in contravention of section 3.

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# SCHEDULE B

## STATUTES AND PORTIONS OF STATUTES REPEALED

Session	Chap.	Title	Extent of Repeal
1899	3	An Ordinance to validate certain proceedings in the Courts of the Yukon Territory	The whole
1899	10	An Ordinance for granting to the Commissioner certain sums of Money to defray the expenses of the Public Service of Yukon Territory	The whole
1899	18	An Ordinance respecting the Grand Forks Water Association	The whole
1899	20	An Ordinance respecting The Yukon Hygeia Water Supply Company	The whole
1899	27	An Ordinance respecting Hunker Creek Ferry	The whole
1899	28	An Ordinance respecting the Klondike Ferry	The whole
1899	35	An Ordinance to confirm, ratify and legalize certain transfers of Real Property made by J. E. Hansen as the attorney in fact of James N. Wilson, executor, in the Yukon Territory of the last Will and Testament of Arthur Harper deceased.	The whole
1899	46	An Ordinance respecting the Dawson City and Yukon Territory. Public Business Register and Business Directory	The whole
1899	47	An Ordinance to provide for the building of a wagon road in the Yukon Territory	The whole
1899	49	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1900	5	An Ordinance respecting the Census	The whole
1900	6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1900	26	An Ordinance respecting the Territorial Court	The whole
1900	30	An Ordinance respecting Taxation. Dawson	The whole
1900	35	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1900	40	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1900	29	An Ordinance respecting the Dawson Electric Light and Power Company	The whole
1901	8	An Ordinance entitled additional Ordinance respecting the Preservation of Game in the Yukon Territory	The whole
1901	12	An Ordinance to enable the Court of Revision of the Town of Dawson to re-open, hear and determine Appeals from assessments for the year 1900	The whole
1901	13	An Ordinance respecting Taxation for 1900(Dawson)	The whole
1901	27	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1901	43	An Ordinance empowering the Northern Commercial Company, to lay pipes, etc., in the Town of Dawson	The whole
1902	5	An Ordinance to repeal certain Ordinances of the Yukon Council	The whole
1902	11	An Ordinance to confirm By-Law No. 12 of the City of Dawson	The whole
1902	17	An Ordinance to amend the Dawson City Charter	The whole
C.O. 1902	68	An Ordinance respecting the limits of Dawson and Klondike City	The whole
1902	21	An Ordinance to authorize the Consolidation of the Ordinances	The whole
1903	7	An Ordinance for granting to the Commissioner certain sums of money for the Development of Mining in the Yukon Territory	The whole
1903	17	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service	The whole
1904	1	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service	The whole
1904	9	An Ordinance to validate the Town of Bonanza Assessment for 1904	The whole
1904	19	An Ordinance granting to the Commissioner certain sums of money to defray the expense of the Public Service	The whole
1905	6	An Ordinance respecting the By-Laws of the City of Dawson	The whole
1905	7	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1906	9	An Ordinance closing portions of Fifth Avenue and Portions of Lambert and Elliot Streets in Whitehorse from Public use	The whole
1906	12	An Ordinance for granting to the Commissioner certain sums of money to defray the Expenses of the Public Service	The whole

<b>Session</b>	<b>Chap. Title</b>	<b>Extent of Repeal</b>
1907	14 An Ordinance granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1908	4 An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1909	9 An Ordinance for granting to the Commissioners certain sums of money to defray the Expense of the Public Service	The whole
1910	7 An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1911	5 An Ordinance to amend Chapter 16 of 1904	s. 3
1911	7 An Ordinance to amend the Assessment Ordinance	The whole
1911	9 An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1911	10 An Ordinance to remit certain Taxes on Lots 17, 18, 19 and 20 in Dawson	The whole
1912	5 An Ordinance to validate Assessment Rolls of the City of Dawson	The whole
1912	8 An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1913	2 An Ordinance to amend the Assessment Ordinance	s. 3
1913	4 An Ordinance to declare valid certain By-Laws of the City of Dawson	The whole
1913	6 An Ordinance authorizing the Consolidation of the Ordinances of the Yukon Territory and By-Laws of the City of Dawson	The whole
1913	10 An Ordinance to provide for a Plebiscite respecting Dawson Public Schools	The whole
1913	11 An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1914	3 An Ordinance to validate the Assessment of the City of Dawson	The whole
1914	5 An Ordinance respecting the Consolidated Ordinances of 1914	The whole
1914	19 An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service	The whole
1914	21 An Ordinance relating to Charges for Electric Light and Water in Dawson	The whole
C.O. 1914	18 An Ordinance respecting joint stock companies	ss. 326-329
1915	8 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1916	6 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1917	3 An Ordinance to legalize and confirm certain alterations made in public roads	The whole
1917	9 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1918	8 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory	The whole
1919	14 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1920	11 An Ordinance granting the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1921	11 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1922	6 An Ordinance to declare valid a certain notice of sale given under the Crown Grant Tax Ordinance	The whole
1922	7 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1923	8 An Ordinance to amend the Companies Ordinance	The whole
1923	10 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1924	9 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1925	8 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole





<b>Session</b>	<b>Chap.</b>	<b>Title</b>	<b>Extent of Repeal</b>
1948	21	An Ordinance to authorize and implement an agreement between the Dominion and the Territory	The whole
1948	24	An Ordinance respecting the Yukon Corporation Income Tax	The whole
1948	25	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1949(1st)	14	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1949(2nd)	6	An Ordinance to amend the Yukon Corporation Income Tax Ordinance	The whole
1949(2nd)	8	An Ordinance respecting municipalities and taxation	ss. 7, 413(2), (3), (4)
1949(2nd)	24	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service	The whole
1950(1st)	12	An Ordinance to authorize and implement an agreement between the Department of National Defence of the Government of Canada and the Government of the Yukon Territory	The whole
1950(1st)	21	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson	The whole
1950(2nd)	6	An Ordinance to authorize and implement an agreement between the Department of Resources and Development of the Government of Canada and the Government of the Yukon Territory	The whole
1950(2nd)	10	An Ordinance to amend the Municipal Ordinance	s. 2(2)
1951(1st)	2	An Ordinance to relieve the Municipal Council of the City of Dawson and Alderman George O. Shaw from restrictions imposed by section 27 of the Municipal Ordinance	The whole
1951(1st)	12	An Ordinance to amend the Municipal Ordinance	s. 4
1951(1st)	17	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1951(2nd)	2	An Ordinance empowering the Deputy Minister (Taxation) of the Department of National Revenue of the Government of Canada to exercise the powers and duties imposed on the Commissioner of the Yukon Territory by the Yukon Corporation Income Tax Ordinance	The whole
1952(1st)	6	An Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Mayo Utilities Limited for the operation of a telephone system in the Mayo Area, Yukon Territory	The whole
1952(1st)	21	An Ordinance respecting businesses, callings, trade and occupations and the issue of licences therefor	s. 11(3)
1952(1st)	24	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1952(2nd)	8	An Ordinance to authorize and implement an agreement between the Government of Canada and the Government of the Yukon Territory, No. 2	The whole
1952(2nd)	11	An Ordinance to amend the Yukon Corporation Income Tax Ordinance	The whole
1952(2nd)	15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1953(1st)	4	An Ordinance to empower the Commissioner to authorize the Department of National Revenue to delete from its accounts due and owing from certain persons	The whole
1953(1st)	11	An Ordinance to amend an Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Mayo Utilities Limited for the operating of a telephone system in the Mayo Area, Yukon Territory	The whole
1953(1st)	13	An Ordinance to ratify the tax rental agreement between the Government of Canada and the Government of the Yukon Territory	The whole
1953(1st)	15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1953(2nd)	2	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1953(3rd)	2	An Ordinance to amend the Workmen's Compensation Ordinance	s. 2
1953(3rd)	4	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1954(1st)	4	An Ordinance to authorize the City of Whitehorse to construct water-works and purification systems and sewage disposal plants and to borrow money therefor	The whole
1954(1st)	12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole

<b>Session</b>	<b>Chap.</b>	<b>Title</b>	<b>Extent of Repeal</b>
1954(1st)	13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1954(1st)	14	An Ordinance granting a beer licence to Gordon Crum and Norman Mytron of Teslin, in Yukon Territory	The whole
1954(2nd)	2	An Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to the Yukon Electrical Company Limited to sell and distribute electrical energy in the Whitehorse Area, Yukon Territory	The whole
1954(2nd)	3	An Ordinance to authorize the Commissioner to borrow a sum not exceeding one million dollars from the Government of Canada and to loan that sum to the City of Whitehorse, and to authorize the Commissioner to execute an agreement relating thereto	The whole
1954(3rd)	46	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1955(1st)	8	An Ordinance respecting liability in actions for damages for negligence where more than one party is at fault	s. 10
1955(1st)	16	An Ordinance respecting the profession of pharmaceutical chemist	s. 24
1955(1st)	27	An Ordinance to authorize the Commissioner of the Yukon Territory to extend the boundaries of the City of Whitehorse and to make an agreement with the City of Whitehorse	The whole
1955(1st)	28	An Ordinance to authorize the Commissioner to lend money to the City of Whitehorse for the construction of municipal works	The whole
1955(1st)	30	An Ordinance to authorize the Commissioner of Yukon Territory to enter into an agreement with the City of Whitehorse respecting the construction of a waterworks system and sewage system in the City of Whitehorse and in the new subdivision adjacent to such City, and to authorize the Commissioner to enter into a contract for the construction of such waterworks system and sewage system	The whole
1955(1st)	34	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1955(1st)	35	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1955(2nd)	1	An Ordinance to authorize the Commissioner to borrow a sum not exceeding seven hundred and eighty thousand dollars from the Government of Canada and to authorize the Commissioner to execute an agreement relating thereto	The whole
1955(2nd)	2	An Ordinance to authorize the Commissioner to borrow a sum not exceeding \$750,000 from the Government of Canada to enable the Yukon Territory to contribute a sum not exceeding that amount towards the construction of a hospital at Whitehorse	The whole
1955(2nd)	3	An Ordinance to approve an agreement respecting a territorial school at Whitehorse made between the Government of Canada and the Commissioner of the Yukon Territory	The whole
1955(2nd)	4	An Ordinance to authorize the Commissioner to enter into an agreement with La Communauté Des Socurs de Charite de la Providence and the Catholic Episcopal Corporation of Whitehorse for the erection of a school at Whitehorse to authorize a grant to assist in the erection of such school	The whole
1955(2nd)	5	An Ordinance to approve an agreement respecting the maintenance of the road between Whitehorse and Mayo in the Yukon Territory between the Government of Canada and the Commissioner of the Yukon Territory	The whole
1955(2nd)	8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1955(2nd)	9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1956(1st)	9	An Ordinance to authorize the Commissioner to enter into an agreement with the Government of Canada to amend an agreement respecting a loan by Canada to the Yukon Territory in the sum of \$780,000	The whole
1956(1st)	12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1956(1st)	13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1956(2nd)	12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1957(1st)	4	An Ordinance to authorize the Commissioner to sell certain property situate in Whitehorse	The whole

<b>Session</b>	<b>Chap. Title</b>	<b>Extent of Repeal</b>
1957(1st)	8 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1957(1st)	9 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1957(2nd)	8 An Ordinance to authorize the Commissioner of the Yukon Territory to enter into an agreement with the Minister of Citizenship and Immigration of Canada respecting the education of Indian children in the City of Whitehorse	The whole
1957(2nd)	15 An Ordinance for granting to the Commissioner certain additional sums of money to defray the expenses of the Public Service of the Territory	The whole
1958(1st)	11 An Ordinance to authorize the Commissioner to enter into an agreement with the Minister of Citizenship and Immigration of Canada respecting the education of Indian children in the City of Dawson	The whole
1958(1st)	13 An Ordinance to authorize the Commissioner to grant a franchise to the Yukon Electrical Company Limited for the distribution of electrical power in the area of Haines Junction, in the Yukon Territory	The whole
1958(1st)	23 An Ordinance to amend the Evidence Ordinance	s. 2
1958(1st)	26 An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory	The whole
1958(1st)	27 An Ordinance for granting to the Commissioner certain additional sums of money to defray the expenses of the Public Service of the Territory	The whole
1958(2nd)	1 An Ordinance to confirm the assessment Roll, Collector's Roll and tax rate of the municipality of Whitehorse for the year 1957	The whole
1958(2nd)	2 An Ordinance respecting the Revised Ordinances of the Yukon Territory, 1958	The whole
1958(2nd)	3 Supplementary Appropriation Ordinance, 1958-59	The whole
1958(2nd)	4 Supplementary Appropriation Ordinance, 1957-58	The whole
R.O. 1958	60 Judicature Ordinance	ss. 4, 15 & 35
1959(1st)	2 Unemployment Assistance Agreement Ordinance	The whole
1959(1st)	4 An Ordinance to Amend the Insurance Ordinance	ss. 3, 4
1959(1st)	8 An Ordinance to Amend the Public Health Ordinance	s. 3
1959(1st)	10 Appropriation Ordinance, 1959-60	The whole
1959(1st)	11 Third Appropriation Ordinance, 1958-59	The whole
1959(1st)	12 Third Appropriation Ordinance, 1957-58	The whole
1959(1st)	13 First Appropriation Ordinance, 1959-60	The whole
1959(2nd)	3 Electrical Franchise Ordinance - Watson Lake	The whole
1959(2nd)	6 An Ordinance to Amend the First Appropriation Ordinance, 1959-60	The whole
1959(2nd)	7 An Ordinance to Amend the Appropriation Ordinance, 1959-60	The whole
1959(2nd)	8 Second Appropriation Ordinance, 1959-60	The whole
1959(2nd)	9 Third Appropriation Ordinance, 1959-60	The whole
1959(2nd)	10 Fourth Appropriation Ordinance, 1959-60	The whole
1960(1st)	3 City Frontage Tax (Whitehorse) Ordinance	The whole
1960(1st)	8 Fourth Appropriation Ordinance, 1958-59	The whole
1960(1st)	9 Appropriation Ordinance, 1960-61	The whole
1960(3rd)	1 Electrical Franchise Ordinance - Carcross	The whole
1960(3rd)	2 Housing Loan Ordinance, Yukon	The whole
1960(3rd)	6 First Appropriation Ordinance, 1960-61	The whole
1961(1st)	1 Electrical Franchise Ordinance - Carmacks	The whole
1961(1st)	10 Appropriation Ordinance, 1961-62	The whole
1961(1st)	11 Second Appropriation Ordinance, 1960-61	The whole
1961(2nd)	3 Yukon Housing Ordinance	s. 6
1961(2nd)	4 Loan Agreement Ordinance (1961), No. 2	The whole
1961(3rd)	4 Loan Agreement Ordinance (1961)	The whole
1961(3rd)	5 First Appropriation Ordinance, 1961-62	The whole
1962(1st)	2 Loan Agreement Ordinance (1962), No. 1	The whole
1962(1st)	4 Financial Agreement Ordinance, 1962	The whole
1962(1st)	7 School Ordinance	s. 100
1962(1st)	8 Lord's Day Ordinance	The whole
1962(1st)	24 Second Appropriation Ordinance, 1961-62	The whole
1962(1st)	25 Interim Supply Appropriation Ordinance, 1962	The whole
1962(1st)	26 Appropriation Ordinance, 1962-63	The whole
1962(1st)	27 First Appropriation Ordinance, 1962-63	The whole
1962(2nd)	1 Second Appropriation Ordinance, 1962-63	The whole
1962(4th)	1 Third Appropriation Ordinance, 1962-63	The whole
1962(5th)	3 Fire Prevention Ordinance	s. 25
1962(5th)	17 Third Appropriation Ordinance, 1961-62	The whole
1962(5th)	18 Fourth Appropriation Ordinance, 1962-63	The whole

<b>Session</b>	<b>Chap.</b>	<b>Title</b>	<b>Extent of Repeal</b>
1963(1st)	1	Electrical Franchise Ordinance - Teslin	The whole
1963(1st)	13	An Ordinance to Repeal the Low Rental Housing Agreement Ordinance	The whole
1963(1st)	4	Superannuation Ordinance, Territorial Employees'	ss. 7, 8
1963(1st)	8	An Ordinance to Amend the Low Cost Housing Ordinance	s. 1
1963(1st)	11	An Ordinance to Amend the Forest Protection Ordinance	s. 3
1963(1st)	14	Interim Supply Appropriation Ordinance	The whole
1963(1st)	15	First Appropriation Ordinance, 1963-64	The whole
1963(1st)	16	Second Appropriation Ordinance, 1963-64	The whole
1963(2nd)	13	An Ordinance to Repeal An Ordinance to Incorporate the North Star Athletic Association, Limited	The whole
1963(2nd)	4	Mayo Seaplane Base Agreement Ordinance	The whole
1963(2nd)	11	An Ordinance to Amend the Electrical Franchise Ordinance - Teslin	The whole
1963(2nd)	14	Fifth Appropriation Ordinance, 1962-63	The whole
1963(2nd)	15	Third Appropriation Ordinance, 1963-64	The whole
1964(1st)	1	Corporation of the City of Dawson Ordinance	s. 2
1964(1st)	14	Interim Supply Appropriation Ordinance, 1964	The whole
1964(1st)	15	First Appropriation Ordinance, 1964-65	The whole
1964(1st)	16	Second Appropriation Ordinance, 1964-65	The whole
1964(1st)	17	Third Appropriation Ordinance, 1964-65	The whole
1964(2nd)	2	Royal Canadian Mounted Police Agreement Ordinance	The whole
1964(2nd)	3	An Ordinance to Amend the Vital Statistics Ordinance	ss. 4, 5
1964(2nd)	4	An Ordinance to Amend the Electrical Franchise Ordinance - Carmacks	The whole
1964(2nd)	5	An Ordinance to Amend the Electrical Franchise Ordinance - Carcross	The whole
1964(2nd)	13	An Ordinance to Repeal the Hospital Ordinance	The whole
1964(2nd)	14	First Appropriation Ordinance, 1964-65	The whole
1965(1st)	7	Second Appropriation Ordinance, 1964-65	The whole
1965(1st)	8	Interim Supply Appropriation Ordinance, 1965	The whole
1965(1st)	9	First Appropriation Ordinance, 1965-66	The whole
1965(1st)	10	Second Appropriation Ordinance, 1965-66	The whole
1965(2nd)	8	An Ordinance to Amend the Yukon Housing Ordinance	The whole
1965(2nd)	9	First Appropriation Ordinance, 1965-66	The whole
1966(1st)	4	Dawson City Sewage Disposal System Sale Ordinance	The whole
1966(1st)	11	An Ordinance to Repeal the Loan Agreement Ordinance, 1961, No. 1	The whole
1966(1st)	12	An Ordinance to Repeal the Whitehorse Land Sale and Loan Ordinance	The whole
1966(1st)	13	Interim Supply Appropriation Ordinance, 1966	The whole
1966(1st)	14	Interim Supply Appropriation Ordinance, (1966), No. 2	The whole
1966(1st)	15	First Appropriation Ordinance, 1966-67	The whole
1966(1st)	16	Second Appropriation Ordinance, 1966-67	The whole
1966(2nd)	4	Whitehorse Centennial Complex Loan Ordinance	The whole
1966(2nd)	16	First Appropriation Ordinance, 1966-67	The whole
1966(2nd)	17	Second Appropriation Ordinance, 1966-67	The whole
1967(1st)	1	Cemeteries and Burial Sites Ordinances	s. 10
1967(1st)	2	Electrical Protection Ordinance	s. 17
1967(1st)	18	An Ordinance to Amend the Loan Agreement Ordinance (1962), No. 1	The whole
1967(1st)	19	Financial Agreement Ordinance, 1967	The whole
1967(1st)	20	Interim Supply Appropriation Ordinance, 1967	The whole
1967(1st)	21	First Appropriation Ordinance, 1967-68	The whole
1967(1st)	22	Second Appropriation Ordinance, 1967-68	The whole
1967(1st)	23	Interim Supply Appropriation Ordinance, (1967), No. 2	The whole
1967(2nd)	1	Adult Occupational Training Agreements Ordinance	The whole
1967(2nd)	2	Brands Ordinance	s. 21
1967(2nd)	4	Regulations Ordinance	ss. 10, 11
1967(2nd)	5	Social Assistance Ordinance	s. 16
1967(2nd)	17	Loan Agreement Ordinance (1967), No. 1	The whole
1968(2nd)	4	An Ordinance to Amend the Financial Agreement Ordinance, 1967	The whole
1968(2nd)	13	Interim Supply Appropriation Ordinance, 1968	The whole
1968(2nd)	14	First Appropriation Ordinance, 1968-69	The whole
1968(3rd)	1	Lands Ordinance, Yukon	s. 7
1968(3rd)	2	Canada and Anvil Agreements Ordinance	The whole
1968(3rd)	4	First Appropriation Ordinance, 1968-69	The whole
1968(4th)	2	Fuel Oil Tax Ordinance	s. 18
1968(4th)	4	Hotels and Tourist Establishments Ordinance	s. 28
1968(4th)	7	An Ordinance Respecting Agisters and Keepers of Liver, Boarding and Sales Stables	The whole
1968(4th)	8	An Ordinance to Amend the Evidence Ordinance	The whole
1968(4th)	13	An Ordinance to Amend the Loan Agreement Ordinance (1962), No. 1	The whole
1968(4th)	18	Fourth Appropriation Ordinance, 1968-69	The whole

Session	Chap. Title	Extent of Repeal
1969(1st)	1 Financial Agreement Ordinance, 1969	The whole
1969(1st)	2 An Ordinance to Amend the Financial Agreement Ordinance, 1967	The whole
1969(1st)	4 Fifth Appropriation Ordinance, 1968-69	The whole
1969(1st)	5 First Appropriation Ordinance, 1969-70	The whole
1969(2nd)	11 Second Appropriation Ordinance, 1969-70	The whole
1969(3rd)	6 Third Appropriation Ordinance, 1969-70	The whole
1969(3rd)	7 Fourth Appropriation Ordinance, 1969-70	The whole
1970(1st)	3 Liquor Ordinance	ss. 104, 105
1970(1st)	10 Financial Agreement Ordinance, 1970	The whole
1970(1st)	11 First Appropriation Ordinance, 1970-71	The whole
1970(1st)	12 Interim Supply Appropriation Ordinance, 1970-71	The whole
1970(2nd)	1 Yukon Public Service Staff Relations Ordinance	s. 104
1970(2nd)	2 Friendship Centres Agreement Ordinance	The whole
1970(2nd)	3 An Ordinance to Repeal an Ordinance for the Incorporation of Co-operative Associations and to Provide for their Regulation	The whole
1970(2nd)	9 Canada and Anvil Agreement Ordinance, No. 2	The whole
1970(2nd)	10 Loan Agreement Ordinance (1970), No. 1	The whole
1970(2nd)	11 Loan Agreement Ordinance (1970), No. 2	The whole
1970(2nd)	13 Fifth Appropriation Ordinance, 1969-70	The whole
1970(2nd)	14 Second Appropriation Ordinance, 1970-71	The whole
1970(2nd)	15 Third Appropriation Ordinance, 1970-71	The whole
1970(3rd)	1 Securities Ordinance	s. 52
1970(3rd)	4 An Ordinance to Repeal the National Housing Act (Canada) Second Mortgage Loan Agreement Ordinance Authorizing the Commissioner to Borrow a Sum not exceeding Four Hundred Thousand Dollars from the Government of Canada and to Authorize the Commissioner to Enter into an Agreement Related Thereto	The whole
1971(1st)	1 Financial Agreement Ordinance, 1971	The whole
1971(1st)	3 Consumers' Protection Ordinance	s. 90
1971(1st)	4 Court of Appeal Ordinance	s. 17
1971(1st)	5 Elevator and Fixed Conveyances Ordinance	s. 23
1971(1st)	7 Faro General Purposes Loan Ordinance	The whole
1971(1st)	9 Loan Agreement Ordinance (1971), No. 1	The whole
1971(1st)	11 Mental Health Ordinance	s. 10
1971(1st)	12 Territorial Court Ordinance	s. 14
1971(1st)	13 Transport Public Utilities Ordinance	s. 55
1971(1st)	14 Whitehorse Water and Sewer System Upgrading Loan Ordinance	The whole
1971(1st)	15 Yukon Health Care Insurance Plan Ordinance	s. 34
1971(1st)	16 An Ordinance to Repeal the Amusement Tax Ordinance	The whole
1971(1st)	20 An Ordinance to Amend Certain Ordinances Respecting Fees and Licences	ss. 3(5), (6), (8), 6(2), 7(2), 8(1), 9(4), (7), 21(3), (6), 23(1), 25(3)
1971(1st)	30 An Ordinance to Amend the Yukon Loan Ordinance, 1955	The whole
1971(1st)	32 Fourth Appropriation Ordinance, 1970-71	The whole
1971(1st)	33 First Appropriation Ordinance, 1971-72	The whole
1971(1st)	34 Second Appropriation Ordinance, 1971-72	The whole
1971(1st)	35 Fifth Appropriation Ordinance, 1970-71	The whole
1971(3rd)	1 Financial Agreement Ordinance, 1972	The whole
1971(3rd)	2 An Ordinance respecting the Revised Ordinances of the Territory	The whole
1971(3rd)	3 An Ordinance to change the name of the Territorial Court	The whole
1971(3rd)	4 Trade Schools Regulation Ordinance	s. 13
1971(3rd)	12 Third Appropriation Ordinance, 1971-72	The whole
1971(3rd)	13 Fourth Appropriation Ordinance, 1971-72	The whole
R.O. 1971	A-1 Apprentice Training Ordinance	The whole
R.O. 1971	A-2 Arbitration Ordinance	The whole
R.O. 1971	A-3 Archives Ordinance	The whole
R.O. 1971	A-4 Area Development Ordinance	The whole
R.O. 1971	B-3 Brands Ordinance	The whole
R.O. 1971	B-4 Bulk Sales Ordinance	The whole
R.O. 1971	B-5 Business Licence Ordinance	The whole
R.O. 1971	C-1 Cancer Diagnosis Ordinance	The whole
R.O. 1971	C-2 Cemeteries and Burial Sites Ordinance	The whole
R.O. 1971	C-3 Change of Name Ordinance	The whole
R.O. 1971	C-5 Chiropractic Ordinance	The whole
R.O. 1971	C-6 Choses in Action Ordinance	The whole
R.O. 1971	C-8 Civil Emergency Measures Ordinance	The whole

<b>Session</b>	<b>Chap. Title</b>	<b>Extent of Repeal</b>
R.O. 1971	C-9 Collection Ordinance	The whole
R.O. 1971	C-10 Companies Ordinance	ss. 182 - 213
R.O. 1971	C-12 Condominium Ordinance	The whole
R.O. 1971	C-13 Consumers' Protection Ordinance	The whole
R.O. 1971	C-14 Contributory Negligence Ordinance	The whole
R.O. 1971	C-15 Controverted Elections Ordinance	The whole
R.O. 1971	C-16 Co-operative Associations Ordinance	The whole
R.O. 1971	C-18 Coroners Ordinance	The whole
R.O. 1971	C-20 Court of Appeal Ordinance	The whole
R.O. 1971	C-22 Creditors' Relief Ordinance	The whole
R.O. 1971	D-1 Day Care Ordinance	The whole
R.O. 1971	D-2 Dental Profession Ordinance	The whole
R.O. 1971	D-4 Devolution of Real Property Ordinance	The whole
R.O. 1971	D-6 Distress Ordinance	The whole
R.O. 1971	D-7 Dog Ordinance	The whole
R.O. 1971	E-3 Elevator and Fixed Conveyances Ordinance	The whole
R.O. 1971	E-5 Engineering Profession Ordinance	The whole
R.O. 1971	E-6 Evidence Ordinance	The whole
R.O. 1971	E-7 Exemptions Ordinance	The whole
R.O. 1971	E-8 Expropriation Ordinance	The whole
R.O. 1971	F-1 Factors Ordinance	The whole
R.O. 1971	F-2 Fair Practices Ordinance	The whole
R.O. 1971	F-5 Fire Prevention Ordinance	The whole
R.O. 1971	F-7 Flag Ordinance	The whole
R.O. 1971	F-8 Floral Emblem Ordinance	The whole
R.O. 1971	F-9 Forest Protection Ordinance	The whole
R.O. 1971	G-2 Gaols Ordinance	The whole
R.O. 1971	G-3 Garage Keepers' Lien Ordinance	The whole
R.O. 1971	H-1 Health Care Insurance Plan Ordinance	The whole
R.O. 1971	H-2 Historic Sites and Monuments Ordinance	The whole
R.O. 1971	H-3 Hospital Insurance Services Ordinance	The whole
R.O. 1971	H-4 Hotels and Tourist Establishments Ordinance	The whole
R.O. 1971	H-5 Housing Ordinance	The whole
R.O. 1971	H-6 Housing Development Ordinance	The whole
R.O. 1971	I-3 Interpretation Ordinance	The whole
R.O. 1971	I-4 Intestate Succession Ordinance	The whole
R.O. 1971	J-1 Judicature Ordinance	The whole
R.O. 1971	J-2 Jury Ordinance	The whole
R.O. 1971	L-2 Landlord and Tenant Ordinance	The whole
R.O. 1971	L-7 Limitation of Actions Ordinance	The whole
R.O. 1971	L-8 Liquor Ordinance	The whole
R.O. 1971	L-10 Lord's Day Ordinance	The whole
R.O. 1971	L-11 Low Cost Housing Ordinance	The whole
R.O. 1971	M-1 Magistrate's Court Ordinance	The whole
R.O. 1971	M-3 Marriage Ordinance	The whole
R.O. 1971	M-4 Married Women's Property Ordinance	The whole
R.O. 1971	M-5 Mechanics' Lien Ordinance	The whole
R.O. 1971	M-7 Mental Health Ordinance	The whole
R.O. 1971	M-8 Miners' Lien Ordinance	The whole
R.O. 1971	N-2 Noise Prevention Ordinance	The whole
R.O. 1971	N-3 Notaries Ordinance	The whole
R.O. 1971	O-2 Optometry Ordinance	The whole
R.O. 1971	P-1 Partnership Ordinance	The whole
R.O. 1971	P-2 Pawnbrokers and Second-Hand Dealers Ordinance	The whole
R.O. 1971	P-4 Pharmaceutical Chemists Ordinance	The whole
R.O. 1971	P-5 Plebiscite Ordinance	The whole
R.O. 1971	P-6 Pounds Ordinance	The whole
R.O. 1971	P-8 Public Health Ordinance	The whole
R.O. 1971	P-9 Public Printing	The whole
R.O. 1971	P-11 Public Service Staff Relations Ordinance	The whole
R.O. 1971	R-1 Reciprocal Enforcement Ordinance	The whole
R.O. 1971	R-3 Reciprocal Enforcement of Maintenance Orders	The whole
R.O. 1971	R-4 Regulations Ordinance	The whole
R.O. 1971	R-5 Rehabilitation Services Ordinance	The whole
R.O. 1971	S-1 Sale of Goods Ordinance	The whole
R.O. 1971	S-3 School Ordinance	ss. 14 - 77
R.O. 1971	S-4 Scientists and Explorers Ordinance	The whole

<b>Session</b>	<b>Chap. Title</b>	<b>Extent of Repeal</b>	
R.O. 1971	S-5	Securities Ordinance	The whole
R.O. 1971	S-6	Social Assistance Ordinance	The whole
R.O. 1971	S-7	Societies Ordinance	The whole
R.O. 1971	S-10	Superannuation, Territorial Employees Ordinance	The whole
R.O. 1971	T-1	Tenants in Common Ordinance	The whole
R.O. 1971	T-2	Territorial Court Ordinance	The whole
R.O. 1971	T-3	Trade Schools Regulations	The whole
R.O. 1971	T-4	Transport Public Utilities Ordinance	The whole
R.O. 1971	T-5	Trustee Ordinance	The whole
R.O. 1971	V-1	Variation of Trusts	The whole
R.O. 1971	V-2	Vital Statistics Ordinance	The whole
R.O. 1971	W-2	Warehousemen's Lien Ordinance	The whole
R.O. 1971	W-3	Wills Ordinance	The whole
1972	1	Age of Majority Ordinance	The whole
1972	2	Alaska Highway Maintenance Ordinance (1972)	The whole
1972	3	Conflict of Laws (Traffic Accidents) Ordinance	The whole
1972	5	Employment Agencies Ordinance	The whole
1972	6	Gasoline Handling Ordinance	The whole
1972	7	Housing Corporation Ordinance	The whole
1972	8	Lands Ordinance	The whole
1972	9	Mediation Board Ordinance	The whole
1972	13	Taxation Ordinance	The whole
1972	14	An Ordinance to Repeal the Lands Ordinance	The whole
1972	16	An Ordinance to Amend the Chiropractic Ordinance	The whole
1972	17	An Ordinance to Amend the Coroners Ordinance	The whole
1972	18	An Ordinance to Amend the Fire Prevention Ordinance	The whole
1972	20	An Ordinance to Amend the Landlord and Tenant Ordinance	The whole
1972	24	An Ordinance to Amend the Public Health Ordinance	The whole
1972	26	Loan Agreement Ordinance (1972) No. 1	The whole
1972	27	First Appropriation Ordinance 1972-73	The whole
1972	28	Fifth Appropriation Ordinance 1971-72	The whole
1972	29	Second Appropriation Ordinance 1972-73	The whole
1973	1	Building Standard Ordinance	The whole
1973	2	Corrections Ordinance	The whole
1973	3	Fraudulent Preferences and Conveyances Ordinance	The whole
1973	4	Fuel Oil Tax Ordinance	The whole
1973	5	Public Inquiries Ordinance	The whole
1973	6	Workmen's Compensation Ordinance	The whole
1973	8	An Ordinance to Amend the Cooperative Associations Ordinance	The whole
1973	9	An Ordinance to Amend the Dental Profession Ordinance	The whole
1973	10	An Ordinance to Amend the Fire Prevention Ordinance	The whole
1973	12	An Ordinance to Amend the Interpretation Ordinance	The whole
1973	14	An Ordinance to Amend the Mental Health Ordinance	The whole
1973	16	An Ordinance to Amend the Pharmaceutical Chemists Ordinance	The whole
1973	17	An Ordinance to Amend the Pounds Ordinance	The whole
1973	18	An Ordinance to Amend the Vital Statistics Ordinance	The whole
1973	19	Third Appropriation Ordinance 1972-73	The whole
1973	20	Fourth Appropriation Ordinance 1972-73	The whole
1973	21	First Appropriation Ordinance 1973-74	The whole
1973	22	Second Appropriation Ordinance 1973-74	The whole
1973	23	Third Appropriation Ordinance 1973-74	The whole
1973	24	Fourth Appropriation Ordinance 1973-74	The whole
1973	26	Civil Defense Workers' Compensation Agreement Ordinance	The whole
1973	29	Loan Agreement Ordinance (1973), No. 1	The whole
1973	30	Loan Agreement Ordinance (1973), No. 2 (Employment Loans Program)	The whole
1973	31	Purchase and Supply Services Agreement Ordinance	The whole
1973	32	Robert Campbell Bridge Agreement Ordinance	The whole
1974(1st)	1	Electoral District Boundaries Commission Ordinance	The whole
1974(2nd)	3	Tobacco Tax Ordinance	The whole
1974(2nd)	4	An Ordinance to Amend the Court of Appeal Ordinance	The whole
1974(2nd)	7	An Ordinance to Amend the Fair Practices Ordinance	The whole
1974(2nd)	8	An Ordinance to Amend the Interpretations Ordinance	The whole
1974(2nd)	12	An Ordinance to Amend the Notaries Ordinance	The whole
1974(2nd)	13	An Ordinance to Amend the Public Service Staff Relations Ordinance	The whole
1974(2nd)	14	An Ordinance to Amend the School Ordinance	The whole
1974(2nd)	15	An Ordinance to Amend the Societies Ordinance	The whole



<b>Session</b>	<b>Chap.</b>	<b>Title</b>	<b>Extent of Repeal</b>
1974(2nd)	16	Fifth Appropriation Ordinance 1973-74	The whole
1974(2nd)	17	First Appropriation Ordinance 1974-75	The whole
1974(2nd)	18	Second Appropriation Ordinance 1974-75	The whole
1974(2nd)	19	Third Appropriation Ordinance 1974-75	The whole
1974(2nd)	20	Fourth Appropriation Ordinance 1974-75	The whole
1974(2nd)	21	Fifth Appropriation Ordinance 1974-75	The whole
1974(2nd)	23	Interim Supply Appropriation Ordinance 1974-75	The whole
1974(2nd)	24	Loan Agreement Ordinance (1974) No. 1	The whole
1975(1st)	2	Compensation for the Victims of Crime Ordinance	The whole
1975(1st)	3	Court Worker Agreement Ordinance	The whole
1975(1st)	4	Custody of Federal Parole Violators Agreement Ordinance	The whole
1975(1st)	5	Government Employee Housing Plan Ordinance	The whole
1975(1st)	6	Occupational Training Ordinance	The whole
1975(1st)	7	Supervision of Federal Parolees Agreement Ordinance	The whole
1975(1st)	8	Transfer of Prisoners Agreement Ordinance	The whole
1975(1st)	10	An Ordinance to Repeal the Adult Occupational Training Agreements Ordinance	The whole
1975(1st)	11	An Ordinance to Repeal the Disabled Persons' Allowance Ordinance	The whole
1975(1st)	12	An Ordinance to Repeal the Old Age Assistance and Blind Persons' Allowance Ordinance	The whole
1975(1st)	13	An Ordinance to Repeal the Unemployment Assistance Agreement Ordinance	The whole
1975(1st)	17	An Ordinance to Amend the Rehabilitation Services Ordinance	The whole
1975(1st)	18	An Ordinance to Amend the Taxation Ordinance	The whole
1975(1st)	19	Sixth Appropriation Ordinance, 1974-75	The whole
1975(1st)	20	First Appropriation Ordinance, 1975-76	The whole
1975(1st)	22	Loan Agreement Ordinance (1975) No. 1	The whole
1975(2nd)	2	Society of Industrial Accountants Ordinance	The whole
1975(2nd)	3	Students' Financial Assistance Ordinance	The whole
1975(2nd)	4	Travel for Medical Treatment Ordinance	The whole
1975(2nd)	5	Travel Industry Development Agreement Ordinance	The whole
1975(2nd)	6	An Ordinance to Repeal the Students' Grants Ordinance	The whole
1975(2nd)	7	An Ordinance to Amend the Cooperative Associations Ordinance	The whole
1975(2nd)	9	An Ordinance to Amend the Fuel Oil Tax Ordinance	The whole
1975(2nd)	11	An Ordinance to Amend the Historic Sites and Monuments Ordinance	The whole
1975(2nd)	12	An Ordinance to Amend the Housing Development Ordinance	The whole
1975(2nd)	13	An Ordinance to Amend the Judicature Ordinance	The whole
1975(2nd)	15	An Ordinance to Amend the Taxation Ordinance	The whole
1975(2nd)	16	An Ordinance to Amend the Territorial Employees' Superannuation Ordinance	The whole
1975(2nd)	17	Second Appropriation Ordinance, 1975-76	The whole
1975(2nd)	18	Whitehorse (Takhini & Valleyview) Lands Ordinance	The whole
1975(3rd)	1	Highways Ordinance	The whole
1975(3rd)	2	Legal Aid Act	The whole
1975(3rd)	3	An Ordinance to Amend the Area Development Ordinance	The whole
1975(3rd)	4	An Ordinance to Amend the Community Assistance Ordinance	The whole
1975(3rd)	8	An Ordinance to Amend the Hospital Insurance Services Ordinance	The whole
1975(3rd)	13	An Ordinance to Amend the Pharmaceutical Chemists Ordinance	The whole
1975(3rd)	14	An Ordinance to Amend the Public Health Ordinance	The whole
1975(3rd)	15	Third Appropriation Ordinance, 1975-76	The whole
1976(1st)	1	Home Owners' Grant Ordinance	The whole
1976(1st)	2	Insurance Premium Tax Ordinance	The whole
1976(1st)	3	Liquor Tax Ordinance	The whole
1976(1st)	4	An Ordinance to Amend the Community Assistance Ordinance	The whole
1976(1st)	5	An Ordinance to Amend the Compensation for the Victims of Crime Ordinance	The whole
1976(1st)	7	An Ordinance to Amend the Taxation Ordinance	The whole
1976(1st)	8	An Ordinance to Amend the Taxation Ordinance	The whole
1976(1st)	9	An Ordinance to Amend the Tobacco Tax Ordinance	The whole
1976(1st)	11	First Appropriation Ordinance, 1976-77	The whole
1976(1st)	12	Fourth Appropriation Ordinance, 1975-76	The whole
1976(1st)	13	Loan Agreement Ordinance (1976) No. 1	The whole
1976(1st)	14	Loan Agreement Ordinance (1975) No. 2	The whole
1976(2nd)	2	Public Service Commission Ordinance	The whole
1976(2nd)	3	Young Offenders Welfare Agreement Ordinance	The whole
1976(2nd)	5	An Ordinance to Amend the Taxation Ordinance	The whole
1976(3rd)	1	Emergency Medical Aid Ordinance	The whole
1976(3rd)	2	An Ordinance Respecting the Institute of Chartered Accountants	The whole

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1976(3rd)	3	Electrical Protection Ordinance	The whole
1976(3rd)	5	An Ordinance to Amend the Highways Ordinance	The whole
1976(3rd)	6	An Ordinance to Amend the Home Owners' Grant Ordinance	The whole
1976(3rd)	7	An Ordinance to Amend the Insurance Premium Tax Ordinance	The whole
1976(3rd)	9	An Ordinance to Amend the Liquor Ordinance	The whole
1976(3rd)	11	An Ordinance to Amend the Public Service Staff Relations Ordinance	The whole
1976(3rd)	12	An Ordinance to Amend the Securities Ordinance	The whole
1977(1st)	1	Insurance Ordinance	The whole
1977(1st)	3	Electoral District Boundaries Commission Ordinance	The whole
1977(1st)	5	Real Estate Agents Licencing Ordinance	The whole
1977(1st)	8	An Ordinance to Amend the Community Assistance Ordinance	The whole
1977(1st)	10	An Ordinance to Amend the Liquor Tax Ordinance	The whole
1977(1st)	12	An Ordinance to Amend the Taxation Ordinance	The whole
1977(1st)	13	An Ordinance to Amend the Liquor Ordinance	The whole
1977(1st)	15	1st Appropriation Ordinance 77-78	The whole
1977(1st)	16	2nd Appropriation Ordinance 77-78	The whole
1977(1st)	17	3rd Appropriation Ordinance 77-78	The whole
1977(1st)	18	2nd Appropriation Ordinance 76-77	The whole
1977(1st)	19	Loan Agreement Ordinance (1977) No. 1	The whole
1977(1st)	21	Dawson Historic Sites Aid Grants Ordinance	The whole
1977(1st)	22	An Ordinance to Amend the Local Improvement District Ordinance	The whole
1977(2nd)	1	Animal Protection Ordinance	The whole
1977(2nd)	2	Electoral District Boundaries Ordinance	The whole
1977(2nd)	3	Elections Ordinance, 1977	The whole
1977(2nd)	4	Motor Vehicles Ordinance	The whole
1977(2nd)	5	An Ordinance to Amend the Condominium Ordinance	The whole
1977(2nd)	8	An Ordinance to Amend the Partnership Ordinance	The whole
1977(2nd)	9	An Ordinance to Amend the Society of Industrial Accountants Ordinance	The whole
1977(2nd)	10	An Ordinance to Amend the Workmen's Compensation Ordinance	The whole
1977(2nd)	11	An Ordinance respecting the Assessment in the City of Whitehorse	The whole
1977(2nd)	12	Metric Information Agreement Ordinance	The whole
1978(1st)	1	Pioneer Utility Grant Ordinance	The whole
1978(1st)	2	An Ordinance Respecting the Council of the Yukon Territory	The whole
1978(1st)	3	An Ordinance to Amend the Community Assistance Ordinance	The whole
1978(1st)	5	An Ordinance to Amend the Highways Ordinance	The whole
1978(1st)	6	An Ordinance to Amend Home Owners Grant Ordinance	The whole
1978(1st)	10	An Ordinance to Amend the Students' Financial Assistance Ordinance	The whole
1978(1st)	11	An Ordinance to Amend the Taxation Ordinance	The whole
1978(1st)	12	An Ordinance to Amend the Tobacco Tax Ordinance	The whole
1978(1st)	15	Special Rural Development Agreement (Special ARDA) Ordinance	The whole
1978(1st)	16	Third Appropriation Ordinance, 1976-77	The whole
1978(1st)	17	Fourth Appropriation Ordinance, 1977-78	The whole
1978(1st)		First Appropriation Ordinance, 1978-79	The whole
1978(1st)	20	Loan Agreement Ordinance (1978) No. 1	The whole
1979(1st)	1	An Ordinance to Amend the Dental Profession Ordinance	The whole
1979(1st)	2	An Ordinance to Amend the Fuel Oil Tax Ordinance	The whole
1979(1st)	3	Firearms Administration Agreement Ordinance	The whole
1979(1st)	4	Northern Natural Gas Pipeline Agreement Ordinance	The whole
1979(1st)	5	Fifth Appropriation Ordinance, 1977-78	The whole
1979(1st)	6	Second Appropriation Ordinance, 1978-79	The whole
1979(1st)	7	First Appropriation Ordinance, 1979-80	The whole
1979(1st)	9	Loan Agreement Ordinance (1979) No. 1	The whole
1979(2nd)	1	Boiler and Pressure Vessels Ordinance	The whole
1979(2nd)	2	An Ordinance to Change the Name of the Magistrate's Court and Amend the Magistrate's Court Ordinance	The whole
1979(2nd)	3	Day Care Ordinance	The whole
1979(2nd)	4	First Appropriation Ordinance, 1980-81	The whole
1979(2nd)	7	Income Tax Ordinance	The whole
1979(2nd)	11	Matrimonial Property Ordinance	The whole
1979(2nd)	12	Medical Profession Ordinance	The whole
1979(2nd)	13	Parks Ordinance	The whole
1979(2nd)	14	Retirement Plan Beneficiaries Ordinance	The whole
1979(2nd)	15	An Ordinance to Amend the Supreme Court Ordinance	The whole
1979(2nd)	16	An Ordinance to Amend the Taxation Ordinance	The whole
1979(2nd)	17	Third Appropriation Ordinance, 1978-79	The whole
1979(2nd)	18	An Ordinance to Amend the Yukon Council Ordinance	The whole

<b>Session</b>	<b>Chap. Title</b>	<b>Extent of Repeal</b>
1980(1st)	1 Business Development Assistance	The whole
1980(1st)	2 An Ordinance to Amend the Community Assistance Ordinance	The whole
1980(1st)	3 Companies	The whole
1980(1st)	4 An Ordinance to Amend the Condominium Ordinance	The whole
1980(1st)	5 An Ordinance to Amend the Credit Union Ordinance	The whole
1980(1st)	7 An Ordinance to Amend the Evidence Ordinance	The whole
1980(1st)	8 Executions Ordinance	The whole
1980(1st)	9 Fatal Accidents Ordinance	The whole
1980(1st)	11 Frustrated Contracts Ordinance	The whole
1980(1st)	12 Garnishee Ordinance	The whole
1980(1st)	13 An Ordinance to Amend the Government Employee Housing Plan	The whole
1980(1st)	14 Human Tissue Gift Ordinance	The whole
1980(1st)	15 An Ordinance to Amend the Insurance Ordinance	The whole
1980(1st)	16 Interim Supply Appropriation Ordinance. 1980-81	The whole
1980(1st)	17 An Ordinance to Amend the Liquor Ordinance	The whole
1980(1st)	18 An Ordinance to Amend the Liquor Tax Ordinance	The whole
1980(1st)	20 Miscellaneous Statute Law Amendment Ordinance	The whole
1980(1st)	21 An Ordinance to Amend the Motor Vehicles Ordinance	The whole
1980(1st)	23 Perpetuities Ordinance	The whole
1980(1st)	24 Presumption of Death Ordinance	The whole
1980(1st)	25 Reciprocal Enforcement of Maintenance Orders Ordinance	The whole
1980(1st)	26 Second Appropriation Ordinance	The whole
1980(1st)	27 Second Appropriation Ordinance. 1980-81	The whole
1980(1st)	28 Small Claims Ordinance	The whole
1980(1st)	29 An Ordinance to repeal the Stabilization Fund Loan	The whole
1980(1st)	30 Summary Convictions Ordinance	The whole
1980(1st)	31 Survivorship Ordinance	The whole
1980(1st)	32 An Ordinance to Amend the Transport Public Utilities	The whole
1980(1st)	33 An Ordinance to Amend the Trustee Ordinance	The whole
1980(1st)	34 Yukon River Basin Study Agreement Ordinance	The whole
1980(2nd)	1 An Ordinance to Amend the Community Assistance Ordinance	The whole
1980(2nd)	3 An Ordinance to Amend the Compensation for Victims of Crime Ordinance	The whole
1980(2nd)	4 An Ordinance to Amend the Cooperative Associations Ordinance	The whole
1980(2nd)	5 An Ordinance to Amend the Defamation Ordinance	The whole
1980(2nd)	6 Dependants' Relief Ordinance	The whole
1980(2nd)	7 An Ordinance to Amend the Elections Ordinance. 1977	The whole
1980(2nd)	8 First Appropriation Ordinance. 1981-82	The whole
1980(2nd)	10 An Ordinance to Amend the Home Owner's Grant Ordinance	The whole
1980(2nd)	11 An Ordinance to Amend the Income Tax Ordinance	The whole
1980(2nd)	12 An Ordinance to Amend the Insurance Premium Tax Ordinance	The whole
1980(2nd)	14 Loan Agreement Ordinance (1980) No. 1	The whole
1980(2nd)	15 An Ordinance to Amend the Matrimonial Property Ordinance	The whole
1980(2nd)	16 Miscellaneous Statute Law Amendment Ordinance. 1980 (No. 2)	The whole
1980(2nd)	17 Municipal Ordinance	The whole
1980(2nd)	19 An Ordinance to Amend the Partnership Ordinance	The whole
1980(2nd)	20 Personal Property Security Ordinance	The whole
1980(2nd)	21 An Ordinance to Amend the Reciprocal Enforcement of Judgments Ordinance	The whole
1980(2nd)	22 An Ordinance to Amend the School Ordinance	The whole
1980(2nd)	23 An Ordinance to Amend the Societies Ordinance	The whole
1980(2nd)	24 Third Appropriation Ordinance. 1979-80	The whole
1980(2nd)	25 An Ordinance to Amend the Yukon Council Ordinance	The whole
1981(1st)	2 An Ordinance to Amend the Fuel Oil Tax Ordinance	The whole
1981(1st)	3 An Ordinance to Amend the Health Care Insurance Plan Ordinance	The whole
1981(1st)	4 An Ordinance to Amend the Home Owner's Grant Ordinance	The whole
1981(1st)	5 Interim Supply Appropriation Ordinance. 1981-82	The whole
1981(1st)	7 Interprovincial Subpoena Ordinance	The whole
1981(1st)	8 An Ordinance to Amend the Lands Ordinance	The whole
1981(1st)	9 Loan Agreement Ordinance 1981 (No. 1)	The whole
1981(1st)	10 Miscellaneous Statute Law Amendment, 1981 (No. 1)	The whole
1981(1st)	11 Municipal Finance Ordinance	The whole
1981(1st)	13 An Ordinance to Amend the Pioneer Utility Grant Ordinance	The whole
1981(1st)	14 School Trespass Ordinance	The whole
1981(1st)	15 Second Appropriation Ordinance (1981-82)	The whole
1981(1st)	16 Survival of Actions Ordinance	The whole
1981(1st)	17 Third Appropriation Ordinance. 1980-81	The whole

<b>Session</b>	<b>Chap. Title</b>	<b>Extent of Repeal</b>
1981(1st)	18 Third Appropriation Ordinance, 1981-82	The whole
1981(1st)	19 An Ordinance to Amend the Tobacco Tax Ordinance	The whole
1981(1st)	20 An Ordinance to Amend the Yukon Council Ordinance	The whole
1981(2nd)	1 An Ordinance to Amend the Building Standards Ordinance	The whole
1981(2nd)	2 Bulk Sales Ordinance	The whole
1981(2nd)	3 An Ordinance to Amend the Court of Appeal Ordinance	The whole
1981(2nd)	4 An Ordinance to Amend the Elections Ordinance, 1977	The whole
1981(2nd)	5 First Appropriation Ordinance, 1982-83	The whole
1981(2nd)	6 Fourth Appropriation Ordinance, 1980-81	The whole
1981(2nd)	7 An Ordinance to Amend the Income Tax Ordinance	The whole
1981(2nd)	8 An Ordinance to Amend the Judicature Ordinance	The whole
1981(2nd)	10 An Ordinance to Amend the Landlord and Tenant Ordinance	The whole
1981(2nd)	11 Miscellaneous Statute Law Amendment Ordinance, 1981 (No. 2)	The whole
1981(2nd)	12 Miscellaneous Statute Law Repeal Ordinance	The whole
1981(2nd)	13 An Ordinance to Amend the Municipal Ordinance	The whole
1981(2nd)	14 An Ordinance to Amend the Municipal Finance Ordinance	The whole
1981(2nd)	15 Warehouse Receipts Ordinance	The whole
1981(2nd)	16 Wildlife Ordinance	The whole
1982	1 An Act to Amend the Electoral District Boundaries Act	The whole
1982	2 Fourth Appropriation Act, 1981-82	The whole
1982	3 Interim Supply Appropriation Act, 1982-83	The whole
1982	4 An Act to Amend the Interpretation Ordinance	The whole
1982	5 Loan Agreement Act (1982) No. 1	The whole
1982	6 An Act to Amend the Pioneer Utility Grant Act	The whole
1982	7 Seniors' Income Supplement Act	The whole
1982	8 An Act to Amend the Transport Public Utilities Act	The whole
1982	9 An Act to Amend the Yukon Council Act	The whole
1982	11 Interim Supply Appropriation Act, 1982-83 (No. 2)	The whole
1982	12 Interim Supply Appropriation Act 1982-83, (No. 3)	The whole
1982	13 An Act to Amend the Municipal Act	The whole
1982	14 An Act to Amend the Students' Financial Assistance Act	The whole
1982	15 An Act to Amend the Wildlife Act	The whole
1982	17 Agriculture Development Act	The whole
1982	19 Fifth Appropriation Act, 1981-82	The whole
1982	20 First Appropriation Act, 1983-84	The whole
1982	21 An Act to Amend The Insurance Act	The whole
1982	23 An Act to Amend the Landlord and Tenant Act	The whole
1982	24 An Act to Amend the Legislative Assembly Act	The whole
1982	25 An Act to Amend the Liquor Act	The whole
1982	26 An Act to Amend the Motor Vehicles Act	The whole
1982	27 An Act to Amend the Municipal Finance Act	The whole
1982	28 An Act to Amend the Optometry Act	The whole
1982	29 An Act to Amend the Partnership Act	The whole
1982	30 An Act to Amend the Personal Property Security Act	The whole
1982	31 Public Sector Compensation Restraint (Yukon) Act	The whole
1982	32 Second Appropriation Act, 1982-83	The whole
1982	33 Third Appropriation Act, 1982-83	The whole
1982	34 An Act to Amend the Wildlife Act	The whole
1982	35 An Act to Amend the Workers' Compensation Act	The whole
1983	2 Financial Agreement Act, 1983	The whole
1983	3 Fourth Appropriation Act, 1982-83	The whole
1983	4 An Act to Amend the Income Tax Act	The whole
1983	5 Interim Supply Appropriation Act, 1983-84	The whole
1983	6 Interim Supply Appropriation Act, 1983-84 (No. 2)	The whole
1983	7 An Act to Amend the Public Sector Compensation Restraint (Yukon) Act	The whole
1983	8 An Act to Amend the School Act	The whole
1983	9 Second Appropriation Act, 1983-84	The whole
1983	10 An Act to Amend the Territorial Court Act	The whole
1983	11 Third Appropriation Act, 1983-84	The whole
1983	12 Access to Information Act	The whole
1983	13 The Business Corporations Act	The whole
1983	14 Certified General Accountants Act	The whole
1983	15 An Act to Amend the Compensation for Victims of Crime Act	The whole
1983	16 Constitutional Questions Act	The whole
1983	18 An Act to Amend the Elections Act	The whole
1983	19 Financial Administration Act	The whole

<b>Session</b>	<b>Chap. Title</b>	<b>Extent of Repeal</b>
1983	20 First Appropriation Act, 1984-85	The whole
1983	21 Fourth Appropriation Act, 1983-84	The whole
1983	22 An Act to Amend the Legislative Assembly Act	The whole
1983	23 An Act to Amend the Legislative Assembly Act (No. 2)	The whole
1983	24 An Act to Amend the Motor Vehicles Act	The whole
1983	25 An Act to Amend the Municipal Act	The whole
1983	26 Public Lotteries Act	The whole
1983	27 Recreation Act	The whole
1983	28 An Act to Amend the Society of Management Accountants Act	The whole
1983	29 An Act to Amend the Workers' Compensation Act	The whole
1983	30 An Act to Amend the Yukon River Basin Study Agreement Act	The whole
1984	1 An Act to Amend the Business Development Assistance Act	The whole
1984	2 Children's Act	The whole, except s. 185(2)-(3)
1984	3 An Act to Amend the Dental Profession Act	The whole
1984	4 Electoral District Boundaries Commission Act	The whole
1984	5 Employment Standards Act	The whole
1984	6 Energy Conservation Assistance Act	The whole
1984	7 Fifth Appropriation Act, 1982-83	The whole
1984	8 Fifth Appropriation Act, 1983-84	The whole
1984	9 An Act to Amend the Financial Administration Act	The whole
1984	11 An Act to Amend the Government Employee Housing Act	The whole
1984	13 An Act to Amend the Income Tax Act	The whole
1984	14 Interim Supply Appropriation Act, 1984-85	The whole
1984	15 Interim Supply Appropriation Act, 1984-85 (No. 2)	The whole
1984	16 An Act to Amend the Landlord and Tenant Act	The whole
1984	17 Legal Profession Act	The whole: except s. 117-119
1984	18 Legal Services Society Act	The whole
1984	19 Legislative Assembly Retirement Allowances Act	The whole
1984	20 An Act to Amend the Liquor Act	The whole
1984	21 An Act to Amend the Mental Health Act	The whole
1984	22 Miscellaneous Statute Law Amendment Act, 1984	The whole
1984	23 An Act to Amend the Motor Vehicles Act	The whole
1984	24 An Act to Amend the Municipal Finance Act	The whole
1984	25 An Act to Amend the Public Sector Compensation Restraint (Yukon) Act	The whole
1984	26 Public Utilities Act	The whole
1984	27 An Act to Amend the Real Estate Agents' Licensing Act	The whole
1984	28 Second Appropriation Act, 1984-85	The whole
1984	29 An Act to Amend the Securities Act	The whole
1984	30 Third Appropriation Act, 1984-85	The whole
1984	31 An Act to Amend the Transport Public Utilities Act	The whole
1984	33 Canada and the United Kingdom Reciprocal Recognition and Enforcement of Judgments Act	The whole
1984	34 An Act to Amend the Children's Act	The whole
1984	35 An Act to Amend the Court of Appeal Act	The whole
1984	36 Denture Technicians Act	The whole
1984	37 An Act to Amend the Electoral District Boundaries Act	The whole
1984	38 An Act to Amend the Electrical Protection Act	The whole
1984	39 First Appropriation Act, 1985-86	The whole
1984	40 Fourth Appropriation Act, 1984-85	The whole
1984	41 An Act to Amend the Health Care Insurance Plan Act	The whole
1984	42 An Act to Amend the Hospital Insurance Services Act	The whole
1984	43 An Act to Amend the Legislative Assembly Act	The whole
1984	44 An Act to Amend the Loan Agreement Act (1982) No. 1	The whole
1984	45 Miscellaneous Statute Law Amendment Act, 1984 (No. 2)	The whole
1984	46 Occupational Health and Safety Act	The whole
1984	47 An Act to Amend the Pioneer Utility Grant Act	The whole
1984	48 Yukon Tartan Act	The whole
1985	1 Fifth Appropriation Act, 1984-85	The whole
1985	2 Interim Supply Appropriation Act, 1985-86	The whole
1985	3 An Act to Amend the Liquor Act	The whole
1985	4 An Act to Amend the Municipal Act	The whole
1985	5 Agricultural Products Act	The whole
1985	6 An Act to Amend the Apprentice Training Act	The whole
1985	7 An Act to Amend the Assessment and Taxation Act	The whole

<b>Session</b>	<b>Chap.</b>	<b>Title</b>	<b>Extent of Repeal</b>
1985	8	An Act to Amend the Business Corporations Act	The whole
1985	9	Canadian Charter of Rights and Freedoms Consequential Amendments Act	The whole
1985	11	An Act to Amend the Chiropractic Act	The whole
1985	12	An Act to Amend the Civil Emergency Measures Act	The whole
1985	13	Dangerous Goods Transportation Act	The whole
1985	14	An Act to Amend the Elections Act	The whole
1985	15	An Act to Amend the Employment Standards Act	The whole
1985	16	An Act to Amend the Energy Conservation Assistance Act	The whole
1985	17	An Act to Amend the Financial Administration Act	The whole
1985	19	Fine Option Act	The whole
1985	21	An Act to Amend the Fuel Oil Tax Act	The whole
1985	22	Funeral Directors Act	The whole
1985	23	An Act to Amend the Home Owners' Grant Act	The whole
1985	24	An Act to Amend the Income Tax Act	The whole except new 4(2.1) and (2.2) enacted by S. 2.1 and except 2(5), 2(6), 3(2), 4(5)-(7), 6(2), 7(4), 8(2), 9(2) and 10(2)
1985	25	An Act to Amend the Insurance Act	The whole
1985	26	An Act to Amend the Legal Profession Act	The whole
1985	28	An Act to Amend the Matrimonial Property and Family Support Act	The whole
1985	29	Miscellaneous Statute Law Amendment Act, 1985	The whole
1985	30	An Act to Amend the Motor Vehicles Act	The whole
1985	31	An Act to Amend the Noise Prevention Act	The whole
1985	32	An Act to Amend the Partnership Act	The whole
1985	33	Raven Act	The whole
1985	34	An Act to Amend the Reciprocal Enforcement of Maintenance Orders Act	The whole
1985	35	An Act to Amend the Retirement Plan Beneficiaries Act	The whole
1985	36	An Act to Amend the Sale of Goods Act	The whole
1985	37	Second Appropriation Act, 1985-86	The whole
1985	38	An Act to Amend the Summary Convictions Act	The whole
1985	39	Third Appropriation Act, 1985-86	The whole
1985	40	An Act to Amend the Wildlife Act	The whole
1985	41	Yukon Development Corporation Act	The whole
1986	1	An Act to amend the Apprentice Training Act	The whole
1986	2	An Act to repeal the Cancer Diagnosis Act	The whole
1986	3	An Act to amend the Coroners Act	The whole
1986	4	Foreign Arbitral Awards Act	The whole
1986	5	Fourth Appropriation Act, 1985-86	The whole
1986	6	An Act to amend the Fuel Oil Tax Act	The whole
1986	7	Interim Supply Appropriation Act, 1986-87	The whole
1986	8	Interim Supply Appropriation Act, 1986-87 (No. 2)	The whole
1986	9	An Act to amend the Liquor Act	The whole
1986	10	An Act to amend the Liquor Tax Act and the Tobacco Tax Act	The whole
1986	11	Maintenance and Custody Orders Enforcement Act	The whole
1986	12	Miscellaneous Statute Law Amendment Act, 1986 (No. 1)	The whole
1986	16	Small Claims Court Act	The whole
1986	17	An Act to amend the Students' Financial Assistance Act	The whole
1986	19	Vital Statistics Act	The whole

**Appendices**  
**Revised Statutes of the Yukon Territory, 1986**





## APPENDIX A

### STATUTES NOT CONSONLIDATED, NOT REPEALED

The following table lists all the statutes of the Yukon Territory enacted since 1898 that remain in force but are not included in the Revised Statutes of the Yukon, 1986.

Session	Chap. Title	Remarks	
1915	2	An Ordinance to Incorporate the Sisters of Saint Ann	The whole
1963(1st)	2	Synod of the Diocese of Yukon Ordinance	The whole
R.O. 1971	H-5	Housing Ordinance	The whole
R.O. 1971	L-11	Low Cost Housing Ordinance	The whole
1972	25	Rental-Purchase Housing Ordinance	The whole
1972	30	Faro General Purposes Loan Ordinance	The whole
1972	31	Dawson General Purposes Loan Ordinance	The whole
1972	32	Whitehorse General Purposes Loan Ordinance	The whole
1973	7	Workmen's Compensation Supplementary Benefits Ordinance	The whole
1973	25	City of Dawson General Purposes Loan Ordinance	The whole
1973	27	Faro General Purposes Loan Ordinance	The whole
1973	28	Financial Agreement Ordinance, 1973	The whole
1973	33	Territorial-Municipal Employment Loans Ordinance	The whole
1973	34	Whitehorse General Purposes Loan Ordinance	The whole
1974(2nd)	22	Financial Agreement Ordinance, 1974	The whole
1974(2nd)	25	Municipal General Purposes Loan Ordinance	The whole
1975(1st)	1	Community Assistance Ordinance	The whole
1975(1st)	5	Government Employee Housing Plans Ordinance, Section 16	The whole
1975(1st)	9	Young Voyageur Agreement Ordinance	The whole
1975(1st)	21	Financial Agreement Ordinance, 1975	The whole
1975(1st)	23	Municipal General Purposes Loans Ordinance	The whole
1976(1st)	10	Financial Agreement Ordinance, 1976	The whole
1976(1st)	15	Municipal General Purposes Loan Ordinance	The whole
1977(1st)	4	General Development Agreement Ordinance	The whole
1977(1st)	14	Financial Agreement Ordinance, 1977	The whole
1977(1st)	20	Municipal General Purposes Loan Ordinance	The whole
1978(1st)	13	An Ordinance to Open a Certain Portion of Land in the City of Whitehorse	The whole
1978(1st)	14	Dawson City Utilities Replacement Ordinance	The whole
1978(1st)	19	Financial Agreement Ordinance, 1978	The whole
1978(1st)	21	Municipal General Purposes Loan Ordinance	The whole
1979(1st)	8	Financial Agreement Ordinance, 1979	The whole
1979(1st)	10	Municipal General Purposes Loan Ordinance, 1979	The whole
1980(1st)	6	Energy Conservation Agreement Ordinance	The whole
1980(1st)	10	Financial Agreement Ordinance, 1980	The whole
1980(1st)	22	Municipal General Purposes Loan Ordinance, 1980	The whole
1980(2nd)	16	Miscellaneous Statute Law Amendment Ordinance, 1980 (No. 2)	s. 3
1980(2nd)	18	An Ordinance to Amend the Municipal General Purposes Loan Ordinance, 1980	The whole
1981(1st)	1	Financial Agreement Ordinance, 1981	The whole
1981(1st)	12	Municipal General Purposes Loan Ordinance, 1981	The whole
1981(2nd)	11	Miscellaneous Statute Law Amendment Ordinance, 1981 (No. 2)	s.1
1982	10	Financial Agreement Act, 1982	The whole
1982	22	Land Planning Act	The whole
1983	1	Employment Expansion and Development Act	The whole
1983	2	Financial Agreement Act, 1983	The whole
1983	17	Economic and Regional Development Agreement Act	The whole
1984	2	Children's Act	s. 185(2)-(3)
1984	10	Financial Agreement Act, 1984	The whole
1984	12	Government Employees Unemployment Insurance Agreement Act	The whole
1984	17	Legal Profession Act	ss. 117-119

<b>Session</b>	<b>Chap.</b>	<b>Title</b>	<b>Remarks</b>
1984	32	Young Offenders Agreement Act	The whole
1985	10	Central Trust Company and Crown Trust Company Act	The whole
1985	18	Financial Agreement Act, 1985-88	The whole
1985	20	First Appropriation Act, 1986-87	The whole
1985	24	An Act to Amend the Income Tax Act	SS. 2(1)(part), 2(5), 2(6), 3(2), 4(5)-(7), 6(2), 7(4), 8(2), 9(2), 10(2)
1985	27	Loan Guarantee Act, 1985	The whole
1986	13	Municipal General Purposes Loan Act, 1986	The whole
1986	14	Revised Statutes Act	The whole
1986	15	Second Appropriation Act, 1986-87	The whole
1986	18	Third Appropriation Act, 1986-87	The whole

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# APPENDIX B

## UNIFORM ACTS

The following table lists those statutes included in the Revised Statutes of the Yukon, 1986, that are based in whole or in part on model Acts recommended by the Uniform Law Conference of Canada.

<b>Chapter</b>	<b>Title</b>
14	Bulk Sales Act
22	Children's Act
28	Compensation for Victims of Crime Act
33	Contributory Negligence Act
41	Defamation Act
44	Dependants Relief Act
45	Devolution of Real Property Act
57	Evidence Act
64	Fatal Accidents Act
70	Foreign Arbitral Awards Act
73	Frustrated Contracts Act
89	Human Tissue Gift Act
93	Interpretation Act
95	Intestate Succession Act
97	Jury Act
98	Landlord and Tenant Act
110	Marriage Act
129	Perpetuities Act
130	Personal Property Security Act
135	Presumption of Death Act
146	Reciprocal Enforcement of Judgments Act
147	Reciprocal Enforcement of Judgments (U.K.) Act
148	Reciprocal Enforcement of Maintenance Orders Act
151	Regulations Act
153	Retirement Plan Beneficiaries Act
154	Sale of Goods Act
166	Survival of Actions Act
167	Survivorship Act
173	Trustee Act
175	Vital Statistics Act
176	Warehouse Keepers Lien Act
177	Warehouse Receipts Act
179	Wills Act



## APPENDIX C

### HISTORY AND DISPOSITION OF ACTS

The following table shows, section by section, the history and disposition of each statute included in the Revised Ordinances of the Yukon Territory, 1971, and each statute subsequently enacted. The statutes are listed according to the session of the Legislature in which they were enacted, beginning with the Revised Ordinances of 1971. Within each session, statutes are listed in the order of the chapter numbers assigned to them upon publication of the sessional volumes; this number appears in the column entitled "Old Cha.". The new chapter number, if any, assigned to the chapter in the Revised Statutes appears in the column entitled "New Cha.". The "Remarks" column indicates the disposition of each section of the original Act that does not appear in the Revised Statutes. Amendments of the original section are denoted by "AM", followed by the citation of the amending provision. Repeals are denoted by "RP", followed by the citation of the Act that repealed the original section or Act. Statutes and individual sections that have not been consolidated in, and are repealed by, the Revised Statutes are denoted by "N/C". Statutes and individual sections that have been omitted from the Revised Statutes but remain in force are denoted by "N/C N/R". Sections of the statutes that merely amend another statute are cross-referenced to the amended statute by the notation "SEE", followed by the citation of the appropriate section of the amended statute. New sections added to statutes by a subsequent amending statute are denoted "EN", followed by the citation of the appropriate section of the amending statute. Provisions added during the revision process are denoted by "NEW".

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks	
R.O. 1971	A-1	1			N/C	
		2-3	6	1-2	AM. 1985, c. 6, ss. 2-3	
		3.1		3	EN. 1986, c.1, s. 2	
		4-8		4-8	AM. 1985, c. 6, ss. 4-8	
		9		9	AM. 1985, c. 6, s. 9; AM. 1985, c. 1, s. 3	
	A-2	SCHEDULE				N/C
		1				N/C
		2		7	1	
		3				N/C
		3-33			2-33	
		34-36			32-34	AM. 1984, c. 45, s. 4
		37-42			35-40	
		43			41	EN. 1984, c. 45, s. 4; (2) NEW
	SCHEDULES					RP. 1984, c. 45, s. 4; N/C
	A-3	1				N/C
	A-4	2-13		8	1-12	
		1				N/C
	A-5	2-3		9	1-2	
		4			3	AM. 1975(3rd), c. 3, s. 1
		5-6			4-5	
	B-1					RP. 1980(2nd), c. 20, s. 74
	B-2					RP. 1980(2nd), c. 20, s. 74
	B-3	1				RP. 1984, c. 46, s. 55
2			12	1	N/C AM. 1980(1st), c. 20, s. 3	

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		3-9		2-8	
		10		9	AM. 1980(1st), c. 20, s. 3
		11-20		10-19	
B-4					RP. 1981(2nd), c. 2, s. 21.1
B-5	1				N/C
		2-8	17	1-7	
		9		8	AM. 1980(1st), c. 20, s. 4
		10-15		9-14	
C-1					RP. 1986, c. 2
C-2	1				N/C
		2-3	18	1-2	
		4		3	AM. 1986, c. 19, s. 41
		4.1		4	EN. 1986, c. 19, s. 41
		5		5	AM. 1984, c. 45, s. 10
		6-9		6-9	
C-3	1				N/C
		2	20	1	
		3-4		2-3	AM. 1985, c. 9, s. 2
		5-6		4-5	
		7-10		6-9	AM. 1985, c. 9, s. 2
		11-19		10-18	
C-4					RP. 1984, c. 2, s. 185
C-5	1				N/C
		2-3	23	1-2	
		4		3	AM. 1984, c. 45, s. 7; AM. 1985, c. 11, s. 2
		5-10		4-9	
		11		10	AM. 1972, c. 16, s. 1
		12		11	AM. 1972, c. 16, s. 2
		13-14		12-13	
		15		14	AM. 1972, c. 16, s. 3
		16		15	
		17-18		16-17	AM. 1984, c. 45, s. 7
		19		18	AM. 1972, c. 16, s. 4; AM. 1984, c. 45, s. 7; 18(3) NEW
		20		19	AM. 1972, c. 16, s. 4
C-6	1				N/C
		2	24	1	AM. 1980(2nd), c. 20, s. 75
		3		2	
		4			RP. 1980(2nd), c. 20, s. 75
		5-7		3-5	
C-7					RP. 1984, c. 45, s. 8
C-8	1				N/C
		2	25	1	AM. 1984, c. 45, s. 9; AM. 1985, c. 12, s. 2
		3		2	AM. 1985, c. 12, s. 3
		4		3	
		5-7		4-6	AM. 1985, c. 12, ss. 4-6
		7.1		7	EN. 1985, c. 12, s. 7
		8-14		8-14	AM. 1985, c. 12, ss. 8-12
C-9	1				N/C
		2-19	26	1-18	
		SCHEDULE			N/C
C-1	01-181				RP. 1983, c. 13, s. 284
	182-183		143	78-79	
	184-185			80-81	AM. 1983, c. 13, s. 284
	186				N/C
	187			82	AM. 1983, c. 13, s. 284
	188-191			83-86	
	192				N/C
	193-212			87-106	
	213				N/C
	214-336				RP. 1983, c. 13, s. 284
	SCHEDULES				RP. 1983, c. 13, s. 284
C-1	1				RP. 1980(2nd), c. 20, s. 74
C-1	2 1				N/C

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		2-10	28	1-9	
		11		10	AM. 1977(2nd), c. 5, s. 1
		12-17		11-16	
		18		17	AM. 1980(1st), c. 4, s. 1
		19-26		18-25	
	C-1	31			N/C
		2-88	31	1-87	13(4), 29(1)(b), 34(2)(c). N/C
		89			N/C
	C-1	41			N/C
		2-7	32	1-6	
		8			RP. 1980(1st), c. 20, s. 5
		9		7	
	C-1	51			N/C
		2-4	33	1-3	
		5		4	AM. 1977(2nd), c. 3, s. 103
		6-8		5-7	
		9		8	AM. 1984, c. 45, s. 12
		10-22		9-21	
		23		22	NEW
		SCHEDULE			N/C
	C-1	61			N/C
		2-7	34	1-6	
		8		7	AM. 1980(2nd), c. 4, s. 1
		9-27		8-26	
		28		27	AM. 1980(2nd), c. 4, s. 2
		29		28	
		30		29	AM. 1980(2nd), c. 4, s. 3; AM. 1981(1st), c. 10, s. 2 EN. 1980(2nd), c. 4, s. 5
		30.1		30	
		31-32		31-32	
		32.1		33	EN. 1973, c. 8, s. 1; AM. 1975(2nd), c. 7, ss. 1-2; AM. 1984, c. 13, s. 284
		33-34		34-35	
		SCHEDULE			N/C
	C-1	7			RP. 1980(1st), c. 14, s. 16
	C-1	81			N/C
		2	35	1	AM. 1972, c. 17, s. 1
		3		2	
		4-5		3-4	AM. 1972, c. 17, s. 2
		6		5	
		7		6	AM. 1972, c. 17, s. 2
		7.1		7	EN. 1986, c. 3, s. 2
		8-10		8-10	AM. 1972, c. 17, s. 2
		11		11	
		12-13		12-13	AM. 1972, c. 17, s. 2
		14		14	
		15-16		15-16	AM. 1972, c. 17, s. 2
		17-18		17-18	AM. 1972, c. 17, s. 3
		19-20		19-20	
		21		21	AM. 1984, c. 45, s. 11
		22		22	
		23-24		23-24	AM. 1972, c. 17, s. 2
		25-26		25-26	
		27		27	AM. 1972, c. 17, s. 2
		28		28	AM. 1986, c. 12, s. 4
		29-31		29-31	AM. 1972, c. 17, ss. 4-6
		32-33		32-33	AM. 1972, c. 17, s. 2
		34		34	AM. 1972, c. 17, s. 7
		35		35	
		36		36	EN. 1972, c. 17, s. 8
		SCHEDULE			N/C
	C-1	9			RP. 1980(2nd), c. 20, s. 74
	C-2	01-2			N/C
		3	37	1	
		4		2	AM. 1981(2nd), c. 3, s. 1
		5		3	AM. 1974(2nd), c. 4, s. 1; AM. 1984, c. 35, s. 2

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		6		4	
		7		5	AM. 1984, c. 35, s. 3
		8		6	AM. 1984. c. 35, s. 4
		9-15		7-13	
		16			N/C
C-2	1				RP. 1977(1st), c. 2, s. 158
C-2	2 1				N/C
	2-40		38	1-39	
	SCHEDULE				N/C
C-2	3				RP. 1984, c. 45, s. 13
D-1	1				N/C
	2-8		41	1-7	
	8.1			8	EN. 1980(2nd), c. 5, s. 1
	9			9	
	10			10	AM. 1984, c. 45, s. 15
	11-19			11-19	
D-2	1				AM. 1984. c. 3, s. 2; N/C
	2		42	1	AM. 1979(1st), c. 1, s. 1; AM. 1984, c. 3, s. 3
	3			2	AM. 1984, c. 3, s. 4; AM. 1984, c. 36, s. 11
	4			3	AM. 1984, c. 3, s. 17
	5			4	AM. 1984, c. 3, s. 5
	5.1-5.3			5-7	EN. 1984, c. 3, s. 6
	6			8	AM. 1984, c. 3, ss. 7 & 17
	7			9	AM. 1984, c. 3, ss. 8 & 17
	8			10	AM. 1979(1st), c. 1, s. 2; AM. 1984, c. 3, s. 9
	9			11	
	9.1			12	EN. 1984, c. 3, s. 10
	10			13	AM. 1984. c. 3, ss. 11, 18 & 19
	11			14	
	12			15	AM. 1984. c. 3, ss. 12 & 19
	13			16	AM. 1984. c. 3, ss. 13, 17 & 18
	14-18			17-21	
	19			22	AM. 1979(1st), c. 1, s. 3
	20			23	AM. 1979(1st), c. 1, s. 3; AM. 1984. c. 3, ss. 17 & 18
	21			24	AM. 1979(1st), c. 1, s. 3
	22			25	AM. 1979(1st), c. 1, s. 3; AM. 1984. c. 3, s. 18
	23			26	AM. 1979(1st), c. 1, s. 3
	23.1				EN. 1973. c. 9, s. 1; RP. 1979(1st), c. 1, s. 3
	24			27	AM. 1973. c. 9, s. 2; AM. 1973. c. 9, s. 2; AM. 1979(1st), c. 1, s. 3; AM. 1984, c. 3, ss. 14 & 18
	25-26			28-29	
	27			30	AM. 1984, c. 3, s. 19
	28			31	AM. 1984. c. 3, ss. 15 & 19
	29			32	EN. 1984. c. 3, s. 16
D-3					RP. 1980(2nd), c. 6, s. 23
D-4	1				N/C
	2-18		45	1-17	
D-5					RP. 1975(1st), c. 11, s. 1
D-6	1				N/C
	2		46	1	
	3			2	AM. 1980(2nd), c. 20, s. 77
	4			3	
	5			4	AM. 1984, c. 45, s. 16
	6				RP. 1980(2nd), c. 20, s. 77
	7-8			5-6	
D-7	1				N/C
	2-6		47	1-5	
	7			6	AM. 1980(2nd), c. 16, s. 5



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		8		7	
		9		8	AM. 1985, c. 9, s. 3
		10-15		9-14	
E-1		1-3			RP. 1977(2nd), c. 3, s. 104
		4			RP. 1977(2nd), c. 2, s. 2;
		5-14			RP. 1977(2nd), c. 3, s. 104
		15-19			RP. 1979(2nd), c. 18, s. 5
		SCHEDULE			RP. 1977(2nd), c. 2, s. 2
E-2					RP. 1976(3rd), c. 3, s. 30;
E-3		1			N/C
		2-22	51	1-21	
E-4					RP. 1972, c. 5, s. 13
E-5		1			N/C
		2-25	56	1-24	7(5) N/C
		26			RP. 1985, c. 9, s. 5
		27-33		25-31	
E-6		1			N/C
		2-7	57	1-6	
		8		7	AM. 1985, c. 9, s. 6
		9-10		8-9	
		11		10	AM. 1980(1st), c. 7, s. 1;
					AM. 1981(1st), c. 10, s. 4
		12-39		11-38	
		40		39	AM. 1980(1st), c. 20, s. 9
		41-64		40-63	
E-7		1			N/C
		2-6	59	1-5	
		7		6	AM. 1984, c. 45, s. 17
		8-9		7-8	AM. 1984, c. 22, s. 2
E-8		1			N/C
		2-13	60	1-12	
		14-15		13-14	AM. 1984, c. 45, s. 18
		16-18		15-17	
		19		18	AM. 1984, c. 45, s. 18
		20		19	AM. 1984, c. 45, s. 18
		21-26		20-25	
F-1		1			N/C
		2-8	61	1-7	
		9-10			RP. 1980(2nd), c. 16, s. 6
		11-14		8-11	
		15		12	AM. 1980(2nd), c. 22, s. 78
F-2		1			N/C
		2	62	1	
		3		2	AM. 1974(2nd), c. 7, s. 1
		4		3	AM. 1974(2nd), c. 7, s. 2
		5		4	AM. 1974(2nd), c. 7, s. 3
		6-12		5-11	
		13		12	AM. 1974(2nd), c. 7, s. 4
F-3					RP. 1980(1st), c. 9, s. 16
F-4					RP. 1976(3rd), c. 4, s. 50
F-5		1			N/C
		2-19	67	1-18	
		20		19	AM. 1980(2nd), c. 16, s. 7
		21.1			EN. 1972, c. 18, s. 1;
					AM. 1973, c. 10, s. 1;
					RP. 1980(2nd), c. 12, s. 3
		21-24		20-23	
F-6					RP. 1984, c. 45, s. 19
F-7		1			N/C
		2	68	1	AM. 1985, c. 29, s. 5
		SCHEDULE			RP. 1985, c. 29, s. 5
F-8		1	69	1	
F-9		1			N/C
		2-13	71	1-12	
		14-15		13-14	AM. 1980(1st), c. 20, s. 10
		16		15	
		17		16	AM. 1980(1st), c. 20, s. 10
		18		17	

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		19		18	AM. 1980(1st), c. 20, s. 10
		20		19	
		21		20	AM. 1984, c. 22, s. 3
		22-34		21-33	
	F-1	0			RP. 1980(1st), c. 11, s. 11
	F-1	1			RP. 1973, c. 4, s. 25
	F-1	2			RP. 1981(2nd), c. 16, s. 193
	G-1				RP. 1981(2nd), c. 16, s. 193
	G-2	1			N/C
		2	76	1	
		SCHEDULE			N/C
	G-3	1			N/C
		2-3	77	1-2	
		4-5		3-4	AM. 1980(2nd), c. 20, s. 79
		6-9		5-8	
		10		9	AM. 1980(2nd), c. 20, s. 79
		11-12		10-11	
		SCHEDULE			RP. 1980(2nd), c. 20, s. 79
	G-4				RP. 1980(1st), c. 12, s. 60
	H-1	1			N/C
		2	81	1	AM. 1981(1st), c. 3, s. 1;
					AM. 1984, c. 41, s. 2
		3		2	AM. 1984, c. 41, s. 2
		4		3	AM. 1981(1st), c. 3, s. 2;
					AM. 1983, c. 19, s. 83;
					AM. 1984, c. 41, s. 3
		5		4	AM. 1984, c. 41, s. 3
		6		5	AM. 1981(1st), c. 3, s. 3;
					AM. 1983, c. 19, s. 83;
					AM. 1984, c. 41, s. 3
		7		6	AM. 1984, c. 41, ss. 2 & 4
		8		7	AM. 1984, c. 41, s. 5
		9		8	AM. 1984, c. 41, ss. 2 & 6
		10-14		9-13	AM. 1984, c. 41, s. 2
		15		14	AM. 1984, c. 41, ss. 2 & 7
		16-18		15-17	AM. 1984, c. 41, s. 2
		19		18	AM. 1984, c. 41, ss. 2 & 8
		20-22		19-21	AM. 1984, c. 41, s. 2
		23			RP. 1984, c. 41, s. 9
		24-26		22-24	AM. 1984, c. 41, s. 2
		27		25	AM. 1984, c. 41, s. 10
		28		26	AM. 1984, c. 41, s. 2
		29		27	AM. 1984, c. 41, s. 11
		30		28	AM. 1984, c. 41, ss. 2 & 12
		31		29	
		32		30	AM. 1984, c. 41, s. 2
		33		31	
	H-2	1			N/C
		2-3	83	1-2	
		4		3	AM. 1975(2nd), c. 11, s. 1
		5-9		4-8	
	H-3	1			N/C
		2	85	1	AM. 1984, c. 42, s. 2
		3-17		2-16	
		18		17	EN. 1975(3rd), c. 8, s. 1
	H-4	1			N/C
		2-27	86	1-26	
	H-5				N/C N/R
	H-6	1			N/C
		2-4	88	1-3	
		5		4	AM. 1975(2nd), c. 12, s. 1
		6-18		5-17	
		19		18	AM. 1984, c. 45, s. 22
		20		19	
		21		20	
	I-1				EN. 1975(2nd), c. 12, s. 2
	I-2				RP. 1978(1st), c. 2, s. 42
					RP. 1977(1st), c. 1, s. 236

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	I-3	1			AM. 1982, c. 4, s. 2; N/C
		2	93	1	AM. 1982, c. 4, s. 3
		3		2	AM. 1982, c. 4, s. 3; AM. 1985, c. 9, s. 7
		4		3	AM. 1980(1st), c. 20, s. 13
		4.1		4	EN. 1985, c. 9, s. 7
		5		5	
		6-7		6-7	AM. 1982, c. 4, s. 3
		8-10		8-10	9(2) NEW
		10.1		11	EN. 1983, c. 19, s. 81
		11-13		12-14	
		14-15		15-16	AM. 1982, c. 4, ss. 4-5
		16		17	
		17		18	AM. 1982, c. 4, s. 6; AM. 1985, c. 9, s. 7
		18		19	AM. 1982, c. 4, s. 7; AM. 1985, c. 29, s. 7
		19		20	AM. 1985, c. 29, s. 7
		20		21	AM. 1973, c. 12, s. 1; AM. 1974(2nd), c. 8, s. 1; AM. 1979(2nd), c. 2, s. 4; AM. 1980(2nd), c. 20, s. 80; AM. 1982, c. 4, s. 8; AM. 1983, c. 19, s. 81; AM. 1984, c. 2, s. 191.1; AM. 1986, c. 12, s. 9 20(3)-(4) NEW
		21-22		22-23	
		23		24	AM. 1982, c. 4, s. 9
		24		25	AM. 1982, c. 4, s. 10; AM. 1986, c. 12, s. 9
		25		26	
		26			AM. 1973, c. 12, s. 2; RP. 1980(1st), c. 30, s. 35 RP. 1980(1st), c. 30, s. 35
		27-29		27	AM. 1982, c. 4, s. 12
		30		28	
		31		29-34	AM. 1982, c. 4, ss. 13-18
		32-37			N/C
	I-4	1			
		2-13	95	I-12	RP. 1984, c. 2, s. 188
		14-15			
		16-23		13-20	
	J-1	1			N/C
		2	96	1	
		3		2	
				3	R.O. 1958, c. 60, ss. 4 & 15
		4-6		4-6	
		7			RP. 1980(2nd), c. 15, s. 17
		8		7-17	
		9		18	
		10		19-34	AM. 1984, c. 2, s. 189
		11		35	AM. 1981(2nd), c. 8, s. 1 RP. 1981(2nd), c. 8, s. 1
		12			
		13-22		36-45	
		23		46	AM. 1983, c. 19, s. 90
		24-32		47-55	
		33-34			RP. 1980(1st), c. 30, s. 35
		35-50		56-71	
		50.1			EN. 1975(2nd), c. 13, s. 1; AM. 1980(1st), c. 28, s. 1; RP. 1986, c. 16, s. 14
		51			AM. 1980(1st), c. 28, s. 1; RP. 1986, c. 16, s. 14
		51.1			EN. 1980(1st), c. 28, s. 1; RP. 1986, c. 16, s. 14
		52-54			AM. 1980(1st), c. 28, s. 1; RP. 1986, c. 16, s. 14

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		55 56-63			RP. 1986, c. 16, s. 14 AM. 1980(1st), c. 28, s. 1; RP. 1986, c. 16, s. 14 RP. 1986, c. 16, s. 14 N/C
J-2	1		97	1-5	
	2-6			6	AM. 1984, c. 45, s. 23
	7			7-31	31(2) NEW N/C
	8-32				
	SCHEDULE				
J-3					RP. 1979(2nd), c. 8, s. 23
L-1					RP. 1984, c. 5, s. 108
L-2	1		98	1-58	N/C
	2-59			59	EN. 1972, c. 20, s. 1; AM. 1981(2nd), c. 10, s. 2; AM. 1982, c. 23, s. 2
	60			60	EN. 1972, c. 20, s. 1
	61			61	EN. 1982, c. 23, s. 3; AM. 1984, c. 16, s. 2
	61.1			61	EN. 1972, c. 20, s. 1
	62			62	EN. 1972, c. 20, s. 1
	63			63	EN. 1972, c. 20, s. 1; AM. 1981(2nd), c. 10, s. 3
	64			64	EN. 1972, c. 20, s. 1; AM. 1980(1st), c. 20, s. 14; AM. 1981(2nd), c. 10, s. 4; AM. 1984, c. 16, s. 3
	65			65	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 4; 65(2) N/C
	66-69			66-69	EN. 1972, c. 20, s. 1; 66(3) N/C
	69.1			70	EN. 1982, c. 23, s. 5
	70			71	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 6
	71-72			72-73	EN. 1972, c. 20, s. 1
	73			74	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 7
	74			75	EN. 1972, c. 20, s. 1
	75			76	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 8
	75.1-75.7			77-83	EN. 1982, c. 23, s. 9
	76			84	EN. 1972, c. 20, s. 1
	77			85	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 10
	78			86	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 11
	79			87	EN. 1972, c. 20, s. 1
	80			88	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 12
	81			89	EN. 1972, c. 20, s. 1
	82			90	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 13
	83			91	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 14
	83.1-83.2			92-93	EN. 1982, c. 23, s. 15
	84-85			94-95	EN. 1972, c. 20, s. 1
	86			96	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 16
	87			97	EN. 1972, c. 20, s. 1
	88			98	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 17
	89			99	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 18
	90			100	EN. 1972, c. 20, s. 1
	91			101	EN. 1972, c. 20, s. 1; AM. 1982, c. 23, s. 19

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		92		102	EN. 1972, c. 20, s. 1; AM. 1981(2nd), c. 10, s. 5; AM. 1982, c. 23, s. 20
		92.1		103	EN. 1982, c. 23, s. 21
		93			N/C
		SCHEDULE			N/C
L-3					RP. 1972, c. 14
L-4					RP. 1984, c. 17, s. 114
L-5					RP. 1984, c. 17, s. 115
L-6					RP. 1984, c. 2, s. 190
L-7		1			
		2-35	104	1-34	
		35.1		35	EN. 1984, c. 45, s. 24
		36-41		36-41	
		41.1		42	EN. 1984, c. 45, s. 24
		42-47		43-48	
		48			N/C
		49-50		49-50	
L-8		1			N/C
		2	105	1	AM. 1976(3rd), c. 9, ss. 1 & 2; AM. 1980(1st), c. 20, s. 17; AM. 1984, c. 20, s. 2; AM. 1985, c. 3, s. 2
		3		2	AM. 1976(3rd), c. 9, s. 3; AM. 1982, c. 25, s. 2
		4		3	AM. 1982, c. 25, s. 2
		5		4	AM. 1976(3rd), c. 9, s. 4
		6-9		5-8	AM. 1976(3rd), c. 9, s. 5
		10		9	AM. 1976(3rd), c. 9, s. 5; AM. 1982, c. 25, s. 2; AM. 1983, c. 19, s. 89
		11		10	AM. 1976(3rd), c. 9, s. 5; AM. 1983, c. 19, s. 89
		11.1			EN. 1983, c. 19, s. 89; N/C
		12		11	AM. 1976(3rd), c. 9, s. 5; AM. 1982, c. 25, s. 3
		13		12	AM. 1976(3rd), c. 9, s. 5; AM. 1982, c. 25, s. 4
		14		13	AM. 1976(3rd), c. 9, s. 5
		15		14	AM. 1976(1st), c. 3, s. 5; AM. 1976(3rd), c. 9, s. 5; AM. 1982, c. 25, s. 5
		16-18		15-17	AM. 1976(3rd), c. 9, ss. 6-8
		19-20		18-19	
		21		20	AM. 1976(3rd), c. 9, s. 9
		22		21	AM. 1976(3rd), c. 9, s. 10; AM. 1984, c. 20, s. 3
		23-36		22-35	AM. 1976(3rd), c. 9, ss. 11-23
		37		36	AM. 1976(3rd), c. 9, s. 24; AM. 1984, c. 20, s. 4
		38		37	AM. 1976(3rd), c. 9, s. 25; AM. 1982, c. 25, s. 6; AM. 1984, c. 20, s. 5
		39		38	AM. 1976(3rd), c. 9, s. 26
		40		39	
		41		40	AM. 1982, c. 25, s. 7
		42		41	AM. 1976(3rd), c. 9, s. 27
		43		42	
		43.1-43.2		43-44	EN. 1984, c. 20, s. 6
		44-45		45-46	AM. 1976(3rd), c. 9, ss. 28-29
		46		47	
		47		48	AM. 1976(3rd), c. 9, s. 30; AM. 1982, c. 25, s. 8; AM. 1984, c. 20, s. 7
		48-49		49-50	

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		50		51	AM. 1976(3rd), c. 9, s. 31; AM. 1980(1st), c. 17, s. 1
		51-53		52-54	AM. 1976(3rd), c. 9, ss. 32-35
		54		55	
		55-56		56-57	AM. 1976(3rd), c. 9, ss. 36 & 37
		57		58	
		58		59	AM. 1976(3rd), c. 9, s. 38
		59		60	
		60		61	AM. 1976(3rd), c. 9, s. 39
		61		62	AM. 1982, c. 25, s. 9; AM. 1984, c. 20, s. 8; AM. 1986, c. 9, s. 2
		62		63	AM. 1976(3rd), c. 9, s. 40
		63		64	AM. 1982, c. 25, s. 10
		64		65	
		65		66	AM. 1976(3rd), c. 9, s. 41
		66		67	AM. 1980(1st), c. 17, s. 2; AM. 1982, c. 25, s. 11
		67		68	AM. 1976(3rd), c. 9, s. 42
		68		69	
		69		70	AM. 1982, c. 25, s. 12; AM. 1985, c. 9, s. 8
		70		71	AM. 1976(3rd), c. 9, s. 43
		71-74		72-75	
		75-76		76-77	AM. 1976(3rd), c. 9, ss. 44-45
		77		78	AM. 1985, c. 9, s. 8
		78		79	
		80-81		81-82	AM. 1976(3rd), c. 9, ss. 46-47
		82		83	
		82.1		84	EN. 1985, c. 3, s. 3
		83		85	AM. 1976(3rd), c. 9, s. 48
		84		86	AM. 1982, c. 25, s. 13
		85		87	AM. 1985, c. 3, s. 4
		86		88	
		87		89	AM. 1976(3rd), c. 9, s. 49
		88-89		90-91	
		90		92	AM. 1985, c. 9, s. 8
		91			AM. 1976(3rd), c. 9, s. 50; RP. 1985, c. 9, s. 8
		92-93		93-94	
		93.1		95	EN. 1980(1st), c. 20, s. 17
		94-96		96-98	
		97		99	AM. 1976(3rd), c. 9, s. 51
		98		100	
		99		101	AM. 1985, c. 9, s. 8
		100		102	
		101		103	AM. 1976(3rd), c. 9, s. 52
		102		104	
		103		105	AM. 1976(3rd), c. 9, s. 53; AM. 1977(1st), c. 13, s. 1; AM. 1980(1st), c. 20, s. 17; AM. 1982, c. 25, s. 14
		104		106	EN. 1976(3rd), c. 9, s. 54
		105		107	EN. 1976(3rd), c. 9, s. 54; AM. 1982, c. 25, s. 2
		106			N/C
L-9					RP. 1980(2nd), c. 17, s. 441
L-1	01				N/C
	2-9		107	1-8	
L-1	1				N/C N/R
M-1	1				N/C
	2		169	1	AM. 1979(2nd), c. 2, s. 6; AM. 1983, c. 10, s. 2
	3			2	AM. 1983, c. 10, s. 2
	4			3	AM. 1983, c. 10, s. 2; AM. 1985, c. 29, s. 18

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		5		4	AM. 1980(1st), c. 28, s. 2; AM. 1983, c. 10, ss. 2 & 14; AM. 1986, c. 16, s. 12
		6		5	AM. 1980(1st), c. 28, s. 2; AM. 1986, c. 16, s. 12
		7		6	AM. 1983, c. 10, s. 4
		7.1-7.9		7-15	EN. 1983, c. 10, s. 4
		8		16	AM. 1983, c. 10, s. 4
		8.1		17	EN. 1983, c. 10, s. 4 AM. 1985, c. 29, s. 18
		8.2-8.9		18-25	EN. 1983, c. 10, s. 4
		9		26	AM. 1983, c. 10, s. 4
		9.1-9.9		27-35	EN. 1983, c. 10, s. 4
		10		36	AM. 1983, c. 10, s. 4
		10.1-10.7		37-43	EN. 1983, c. 10, s. 4
		10.8		44	EN. 1983, c. 10, ss. 4 & 14
		10.9		45	EN. 1983, c. 10, s. 4
		11-12		46-47	AM. 1983, c. 10, s. 4
		12.1		48	EN. 1983, c. 10, s. 4
		13		49	AM. 1983, c. 10, s. 4
		13.1		50	EN. 1983, c. 10, s. 4
		14-15		51-52	AM. 1983, c. 10, s. 4
		16		53	AM. 1980(1st), c. 28, s. 2; AM. 1983, c. 10, s. 5; AM. 1986, c. 16, s. 12
		17		54	AM. 1980(1st), c. 28, s. 2; AM. 1983, c. 10, s. 6
		18		55	AM. 1983, c. 10, s. 6
		19		56	N/C
		20-28			RP. 1986, c. 16, s. 12
		29		56	AM. 1979(2nd), c. 2, s. 7; AM. 1983, c. 10, s. 8
		29.1-29.2		57-58	EN. 1983, c. 10, s. 8
		30		59	AM. 1983, c. 10, s. 9
		31		60	AM. 1979(2nd), c. 2, s. 8; AM. 1983, c. 10, s. 10
		32		61	AM. 1983, c. 10, s. 11
		32.1-32.6		62-67	EN. 1983, c. 10, s. 11
		33-34			N/C
		34.1		68	EN. 1979(2nd), c. 2, s. 5
		35-36			RP. 1983, c. 10, s. 14
		37			N/C
M-2					RP. 1980(2nd), c. 15, s. 16
M-3		1			N/C
		2-18	110	1-17	
		19-20			RP. 1985, c. 9, s. 9
		21		18	
		22			RP. 1985, c. 9, s. 9
		23-41		19-37	
		42		38	AM. 1984, c. 45, s. 25
		43		39	
		44		40	AM. 1981(1st), c. 10, s. 5
		45-58		41-54	
		SCHEDULE			AM. 1981(1st), c. 10, s. 5; N/C
M-4		1			N/C
		2-7	111	1-6	
M-5		1			N/C
		2	112	1	AM. 1980(2nd), c. 20, s. 82
		3-5		2-4	
		6		5	AM. 1984, c. 45, s. 26; AM. 1985, c. 9, s. 10
		7-32		6-31	
		SCHEDULE			N/C
M-6					RP. 1979(2nd), c. 12, s. 63
M-7		1			N/C

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		2	115	1	AM. 1973, c. 14, s. 1; AM. 1980(1st), c. 20, s. 18; AM. 1984, c. 21, ss. 2 & 7 AM. 1980, c. 21, ss. 3 & 7 AM. 1984, c. 21, s. 4
		3		2	
		4		3	
		5-6		4-5	
		6.1		6	EN. 1973, c. 14, s. 2; AM. 1980(1st), c. 20, s. 18; AM. 1984, c. 21, s. 5; AM. 1985, c. 9, s. 11
		6.2		7	EN. 1973, c. 14, s. 2; AM. 1980(1st), c. 20, s. 18; AM. 1984, c. 21, s. 5
		6.3		8	EN. 1973, c. 14, s. 2; AM. 1984, c. 21, s. 5
		6.4		9	EN. 1984, c. 21, s. 5
		7		10	
		8		11	AM. 1984, c. 21, s. 7
		8.1		12	EN. 1984, c. 21, s. 6
		9		13	
M-8		1			N/C
		2-16	116	1-15	N/C
		SCHEDULE			N/C
M-9					RP. 1984, c. 46, s. 55
M-1		0			RP. 1981(2nd), c. 12, s. 2
M-1		1			RP. 1977(2nd), c. 4, s. 58
N-1					RP. 1981(2nd), c. 12, s. 3
N-2		1			N/C
		1.1	121	1	EN. 1985, c. 31, s. 2
		2-4		2-4	AM. 1985, c. 31, ss. 3-4
		4.1-4.5		5-7	EN. 1985, c. 31, s. 5
		5		8	
N-3		1			N/C
		2	122	1	
		3		2	AM. 1984, c. 45, s. 27
		4-5		3-4	
		6		5	AM. 1974(2nd), c. 12, s. 1
		7-14		6-13	
		15		14	AM. 1985, c. 29, s. 11
		16-19		15-18	
O-1					RP. 1975(1st), c. 12
O-2		1			N/C
		2	125	1	
		3		2	AM. 1982, c. 28, s. 2
		4		3	AM. 1982, c. 28, s. 3
		5		4	AM. 1982, c. 28, s. 2
		6-8		5-7	
		8.1		8	EN. 1982, c. 28, s. 4
		9-13		9-13	
		14		14	AM. 1982, c. 28, ss. 2, 5 & 6
		15		15	AM. 1982, c. 28, s. 5
		16		16	
		17		17	AM. 1982, c. 28, s. 5; AM. 1985, c. 29, s. 12
		18		18	AM. 1982, c. 28, ss. 2, 7 & 8
		19		19	EN. 1982, c. 28, s. 8
P-1		1			N/C
		2	127	1	AM. 1977(2nd), c. 8, s. 1; AM. 1980(2nd), c. 20, s. 83; AM. 1982, c. 29, s. 2
		3-12		2-11	
		13		12	AM. 1982, c. 29, s. 5
		14-20		13-19	
		21		20	AM. 1982, c. 29, s. 6
		21.1		21	EN. 1982, c. 29, s. 7
		22		22	AM. 1982, c. 29, s. 8
		23-26		23-26	
		27		27	AM. 1982, c. 29, s. 9



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		28-32		28-32	
		33		33	AM. 1982, c. 29, s. 10
		34		34	
		35		35	AM. 1982, c. 29, s. 11
		36		36	
		37-38		37-38	AM. 1982, c. 29, ss. 12-13
		39		39	
		40		40	AM. 1982, c. 29, s. 14
		41-43		41-43	
		44		44	AM. 1982, c. 29, s. 15
		45-46		45-46	
		47		47	AM. 1982, c. 29, s. 16; AM. 1985, c. 32, s. 2
		48-49		48-49	AM. 1977(2nd), c. 8, ss. 2-3; AM. 1982, c. 29, s. 16
		50		50	AM. 1982, c. 29, s. 16 AM. 1985, c. 32, s. 3
		51			AM. 1977(2nd), c. 8, s. 4; RP. 1980(2nd), c. 19, s. 1
		51.1		51	EN. 1977(2nd), c. 8, s. 5; AM. 1980(2nd), c. 19, s. 1; AM. 1982, c. 29, s. 16
		52		52	AM. 1982, c. 29, s. 16
		53		53	AM. 1982, c. 29, s. 16; AM. 1985, c. 32, s. 4
		54		54	AM. 1982, c. 29, s. 16
		55		55	AM. 1977(2nd), c. 8, s. 6; AM. 1982, c. 29, s. 16
		56		56	AM. 1982, c. 29, s. 16
		57		57	AM. 1982, c. 29, s. 16; AM. 1985, c. 32, s. 5
		58		58	
		59-61		59-61	AM. 1982, c. 29, s. 16; AM. 1985, c. 32, ss. 6-8
		62-63		62-63	
		64-65		64-65	AM. 1982, c. 29, s. 16; AM. 1985, c. 32, ss. 9-10
		66-68		66-68	
		69		69	AM. 1980(1st), c. 20, s. 21; AM. 1982, c. 29, s. 16; AM. 1985, c. 32, ss. 11-12
		70-78		70-78	AM. 1982, c. 29, s. 16
		79		79	AM. 1980(2nd), c. 19, s. 1; AM. 1982, c. 29, s. 16
		80-92		80-92	EN. 1982, c. 29, s. 16
		SCHEDULE			AM. 1977(2nd), c. 8, s. 7; N/C
P-2		1			N/C
		2-14	128	1-13	
P-3					RP. 1980(1st), c. 23, s. 26
P-4		1			N/C
		2-3	131	1-2	
		4		3	4(1) N/C
		5-6		4-5	
		6.1		6	EN. 1973, c. 16, s. 1
		7-13		7-13	
		14			N/C
		15-23		14-22	
		24		23	AM. 1973, c. 16, s. 2; (2) NEW
		SCHEDULES			AM. 1975(3rd), c. 13; N/C
P-5		1			N/C
		2-3	133	1-2	
P-6		1			N/C
		2	134	1	AM. 1980(1st), c. 20, s. 23
		3-4		2-3	
		5		4	AM. 1980(1st), c. 20, s. 23; AM. 1985, c. 29, s. 13

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		6-19		5-18	
		19.1		19	EN. 1973, c. 17, s. 1
		20		20	AM. 1973, c. 17, s. 2; AM. 1980(1st), c. 20, s. 23
		21		21	AM. 1973, c. 17, s. 3; AM. 1980(1st), c. 20, s. 2
		22-23		22-23	AM. 1973, c. 17, ss. 4-5
		SCHEDULE			N/C
P-7					RP. 1980(1st), c. 24, s. 8
P-8		1			N/C
		2	136	1	AM. 1972, c. 24, s. 1
		3-8		2-7	
		9		8	AM. 1972, c. 24, s. 2; AM. 1975(3rd), c. 14, s. 1
		10-18		9-17	
		18.1		18-19	EN. 1972, c. 24, s. 3 AM. 1985, c. 9, s. 13
		19-21		20-22	
		SCHEDULE			N/C
P-9		1			N/C
		2-6	139	1-5	
P-1		0			RP. 1976(2nd), c. 2, s. 217
P-1		1 1			N/C
		2	142	1	AM. 1974(2nd), c. 13, s. 1
		3-6		2-5	
		7		6	AM. 1974(2nd), c. 13, s. 2; AM. 1976(3rd), c. 11, s. 1 AM. 1974(2nd), c. 13, s. 3
		8		7	
		9-11		8-10	
		12		11	AM. 1974(2nd), c. 13, s. 4; AM. 1976(3rd), c. 11, s. 2
		13-42		12-41	
		43		42	AM. 1985, c. 29, s. 14
		44-103		43-102	
R-1		1			N/C
		2	146	1	AM. 1980(2nd), c. 21, s. 1; AM. 1985, c. 29, s. 15
		3		2	AM. 1980(2nd), c. 21, s. 2
		3.1-3.2		3-4	EN. 1980(2nd), c. 21, s. 3
		4-5		5-6	
		6		7	AM. 1980(2nd), c. 21, s. 4
		7		8	
		8-9		9-10	AM. 1980(2nd), c. 21, ss. 5-6 EN. 1980(2nd), c. 21, s. 7;
		SCHEDULE			N/C
R-2					RP. 1980(1st), c. 25, s. 22
R-3		1			N/C
		2-9	149	1-8	
R-4		1			N/C
		2	151	1	
		3		2	AM. 1980(1st), c. 20, s. 25
		4-7		3-6	
		8		7	AM. 1984, c. 45, s. 28
		9		8	
R-5		1			N/C
		2-3	152	1-2	AM. 1975(1st), c. 17, ss. 1-2
		4		3	
		5-9		4-8	AM. 1975(1st), c. 17, ss. 3-7
		10		9	
S-1		1			N/C
		2-5	154	1-4	
		6		5	AM. 1985, c. 36, s. 2
		7-58		6-57	
S-2					RP. 1981(2nd), c. 12, s. 4
S-3		1-13			RP. 1974(2nd), c. 14, s. 295
		14-77	155	226-289	SEE 1974(2nd), c. 14
		78-100			RP. 1974(2nd), c. 14, s. 295
		SCHEDULE			N/C

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S-4	1				N/C
		2-8	157	1-7	
S-5	1				N/C
		2	158	1	AM. 1984, c. 29, s. 2
		3		2	AM. 1976(3rd), c. 12, s. 1; AM. 1980(1st), c. 20, s. 26; AM. 1980(2nd), c. 20, s. 84; AM. 1983, c. 13, s. 284
		4-12		3-11	
		13		12	AM. 1986, c. 12, s. 15
		14-17		13-16	
		18		17	AM. 1986, c. 12, s. 15
		19		18	
		20		19	AM. 1985, c. 9, s. 14
		21		20	AM. 1983, c. 13, s. 284
		22-26		21-25	
		27		26	AM. 1986, c. 12, s. 15
		28-46		27-45	
		47			N/C
		48-51		46-49	
S-6	1				N/C
		2-3	161	1-2	AM. 1980(2nd), c. 16, s. 13
		4-15		3-14	
S-7	1				N/C
		2	162	1	AM. 1980(1st), c. 20, s. 27; AM. 1983, c. 13, s. 284
		3-14		2-13	
		15		14	AM. 1980(2nd), c. 23, s. 1
		16-17		15-16	
		18			RP. 1980(1st), c. 20, s. 27
		19-22		17-20	
		23		21	AM. 1980(1st), c. 20, s. 27
		24-29		22-27	
		30		28	AM. 1974(2nd), c. 15, s. 1; AM. 1980(2nd), c. 23, s. 2 AM. 1980(2nd), c. 23, s. 3
		31		29	
		32-34		30-32	
		34.1		33	EN. 1980(2nd), c. 23, s. 4
		35-37		34-36	AM. 1986, c. 12, s. 16
		38		37	
		39		38	AM. 1983, c. 13, s. 284
		40-52		39-51	
		53		52	AM. 1986, c. 12, s. 16
		54-59		53-58	
		SCHEDULES			N/C
S-8					RP. 1979(2nd), c. 1, s. 43
S-9					RP. 1975(2nd), c. 6, s. 1
S-1	0	1			N/C
		2	140		AM. 1975(2nd), c. 16, s. 1;N/C
		3		1	AM. 1975(2nd), c. 16, s. 2
		4-6		2-4	
S-1	1				RP. 1980(1st), c. 31, s. 3
T-1	1				N/C
		2	168	1	
T-2	1				N/C
		2-3	165	1-2	
		4		3	AM. 1979(2nd), c. 15, s. 1
		5-8		4-7	
		9			RP. 1983, c. 16, s. 6
		10		8	
		10.1			EN. 1980(1st), c. 28, s. 3; RP. 1986, c. 16, s. 13
		11			N/C
		12		10	
		13			N/C
T-3	1				N/C
		2-12	171	1-11	

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T-4	1				AM. 1982, c. 8, s. 2; AM. 1984, c. 31, s. 2; N/C
	2		117	1	AM. 1980(1st), c. 32, s. 1; AM. 1982, c. 8, s. 5; AM. 1984, c. 31, s. 3
	3			2	AM. 1980(1st), c. 32, s. 2; AM. 1982, c. 8, s. 5
	3.1			3	EN. 1980(1st), c. 32, s. 2; AM. 1980(2nd), c. 16, s. 14 AM. 1982, c. 8, ss. 3 & 5
	3.2-3.3			4-5	EN. 1980(1st), c. 32, s. 2; AM. 1982, c. 8, s. 5
	3.4			6	EN. 1980(1st), c. 32, s. 2
	4			7	AM. 1980(1st), c. 32, s. 2.1; AM. 1982, c. 8, s. 6
	5-6			8-9	
	7			10	AM. 1982, c. 8, s. 6
	8			11	
	9-11			12-14	AM. 1982, c. 8, s. 7
	12			15	AM. 1982, c. 8, s. 5
	13			16	AM. 1982, c. 8, ss. 6 & 7
	14			17	AM. 1980(1st), c. 32, s. 3; AM. 1982, c. 8, ss. 5 & 7; AM. 1984, c. 31, s. 4
	14.1-14.2			18-19	EN. 1980(1st), c. 32, s. 3
	15			20	AM. 1980(1st), c. 32, s. 4
	16			21	AM. 1982, c. 8, s. 7
	17			22	AM. 1982, c. 8, s. 6
	18			23	
	19			24	AM. 1982, c. 8, s. 7
	20			25	AM. 1980(1st), c. 32, s. 5; AM. 1982, c. 8, ss. 7 & 8; AM. 1984, c. 31, s. 5
	21			26	AM. 1982, c. 8, s. 7
	22			27	AM. 1980(1st), c. 32, s. 5.1
	23			28	AM. 1982, c. 8, s. 7
	24			29	AM. 1980(1st), c. 32, s. 6; AM. 1984, c. 31, s. 6
	25			30	AM. 1980(1st), c. 32, s. 7; AM. 1984, c. 31, s. 7
	26			31	AM. 1980(1st), c. 32, s. 8; AM. 1984, c. 31, s. 8
	27			32	
	28			33	AM. 1980(1st), c. 32, s. 9; AM. 1982, c. 8, s. 5
	29-30			34-35	AM. 1982, c. 8, s. 5
	31			36	
	31.1			37	EN. 1980(1st), c. 32, s. 10
	32			38	AM. 1980(1st), c. 32, s. 11 AM. 1982, c. 8, s. 5; AM. 1984, c. 31, s. 9
	33			39	
	34-35			40-41	AM. 1980(1st), c. 32, ss. 12-13
	35.1-35.5			42-46	EN. 1980(1st), c. 32, s. 13
	35.6-35.7			47-48	EN. 1980(1st), c. 32, s. 13 AM. 1982, c. 8, s. 5
	36			49	AM. 1982, c. 8, s. 5
	37			50	
	38			51	AM. 1982, c. 8, s. 4
	39-40			52-53	AM. 1980(1st), c. 32, ss. 14-15
	41-44			54-57	
	45			58	AM. 1980(1st), c. 32, s. 16
	46-47			59-60	
	47.1			61	EN. 1980(1st), c. 32, s. 17; AM. 1984, c. 31, s. 10
	47.2				EN. 1980(1st), c. 32, s. 17; RP. 1984, c. 31, s. 11

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		47.3		62	EN. 1980(1st), c. 32, s. 17; AM. 1982, c. 8, s. 5
		48		63	AM. 1980(1st), c. 32, s. 18; AM. 1982, c. 8, s. 5; AM. 1985, c. 9, s. 12
		48.1		64	EN. 1980(1st), c. 32, s. 19; AM. 1982, c. 8, s. 5
		48.2		65	EN. 1980(1st), c. 32, s. 19; AM. 1982, c. 8, s. 5; AM. 1984, c. 31, s. 12
		49		66	AM. 1980(1st), c. 32, s. 20; AM. 1982, c. 8, s. 5
		50		67	AM. 1980(1st), c. 32, s. 21; AM. 1982, c. 8, s. 5
		50.1		68	EN. 1980(1st), c. 32, s. 22; AM. 1984, c. 31, s. 13
		51		69	AM. 1980(1st), c. 32, s. 23; AM. 1984, c. 31, s. 14
		52		70	AM. 1980(1st), c. 32, s. 24; AM. 1982, c. 8, s. 9; AM. 1984, c. 31, s. 15
	T-5	53			RP. 1980(1st), c. 32, s. 25
		1			N/C
		2	173	1	
		3-4		2-3	AM. 1980(1st), c. 33, s. 1
		5-21		4-20	
		22			RP. 1985, c. 29, s. 19
		23-35		21-33	
		36-38			RP. 1981(1st), c. 16, s. 12
		39-51		34-46	
		52		47	AM. 1985, c. 29, s. 19
		53-59		48-54	
	V-1	1			N/C
		2	174	1	
	V-2				RP. 1986, c. 19, s. 42
	W-1				RP. 1985, c. 5, s. 108
	W-2	1			N/C
		2-3	176	1-2	
		4-5		3-4	AM. 1980(2nd), c. 20, s. 85; AM. 1982, c. 30, s. 46
		6-10		5-9	
	W-3	1			N/C
		2-21	179	1-20	
		22			RP. 1985, c. 29, s. 20
		23-31		21-29	
	W-4				RP. 1984, c. 45, s. 31
	W-5				RP. 1973, c. 6, s. 83
1972		1			N/C
		1-2			7(3) N/C
		3-15	2	1-13	N/C
		16			N/C
		2			N/C
		3			N/C
		1			N/C
		2-12	29	1-11	
		13			N/C
		4			RP. 1984, c. 26, s. 79
		5			N/C
		1			N/C
		2-12	53	1-11	
		13			SEE R.O. 1971, c. E-4
		14			N/C
	6	1			N/C
		2	79	1	AM. 1984, c. 45, s. 20
		3		2	
		4		3	AM. 1984, c. 45, s. 20
		5-8		4-7	
		9		8	AM. 1984, c. 45, s. 20
		10-11		9-10	

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		12			REPEALS ORDINANCE NCNR IN 1971;
		13			N/C
7	1	2-16	87	1-15	N/C
		16.1		16	N/C
		17		17	EN. 1984, c. 19, s. 87
		17.1		18	AM. 1984, c. 19, s. 87
		18-19		19-20	EN. 1984, c. 19, s. 87
		21-44		22-45	AM. 1984, c. 19, s. 87
		45			N/C
8	1	2-12	99	1-11	N/C
		13-14		12-13	AM. 1981(1st), c. 8, s. 1
		15-16			RP. 1981(1st), c. 8, s. 1
		17		14	AM. 1981(1st), c. 8, s. 2
		18-34		15-31	
		35			N/C
9	1	2-15	113	1-14	N/C
		16		15	AM. 1984, c. 22, s. 4
		17-18		16-17	
		19			N/C
10					RP. 1980(2nd), c. 17, s. 441
11					RP. 1981(1st), c. 11, s. 21
12					RP. 1980(2nd), c. 17, s. 441
13	1				N/C
		2-3	10	1-2	AM. 1979(2nd), c. 16, s. 1
		4		3	AM. 1975(2nd), c. 15, s. 1;
					AM. 1979(2nd), c. 16, s. 1
		5-12		4-11	AM. 1979(2nd), c. 16, s. 1
		13		12	AM. 1978(1st), c. 11, s. 1
					AM. 1979(2nd), c. 16, s. 1
		14-17		13-16	AM. 1979(2nd), c. 16, s. 1
		18		17	AM. 1975(2nd), c. 15, s. 2;
					AM. 1979(2nd), c. 16, s. 1
		19		18	AM. 1977(1st), c. 12, s. 1;
					AM. 1979(2nd), c. 16, s. 1
		20-29		19-28	AM. 1979(2nd), c. 16, s. 1
		30		29	AM. 1979(2nd), c. 16, s. 1;
					AM. 1980(1st), c. 20, s. 2
		31-37		30-36	AM. 1979(2nd), c. 16, s. 1
		38		37	AM. 1975(2nd), c. 15, s. 3;
					AM. 1978(1st), c. 11, s. 2;
					AM. 1979(2nd), c. 16, s. 1
		39		38	AM. 1975(2nd), c. 15, s. 4;
					AM. 1979(2nd), c. 16, s. 1
		40-48		39-47	AM. 1979(2nd), c. 16, s. 1
		48.1		48	EN. 1979(2nd), c. 16, s. 1;
					AM. 1980(1st), c. 20, s. 2
		49		49	AM. 1979(2nd), c. 16, s. 1;
					AM. 1980(2nd), c. 17, s. 440
		50		50	AM. 1975(1st), c. 18, s. 1;
					AM. 1979(2nd), c. 16, s. 1;
					AM. 1980(2nd), c. 17, s. 440
		51-54		51-54	AM. 1979(2nd), c. 16, s. 1
		55		55	AM. 1975(2nd), c. 15, s. 5;
					AM. 1976(1st), c. 8, s. 1;
					AM. 1976(2nd), c. 5, s. 1;
					AM. 1979(2nd), c. 16, s. 1
		56		56	AM. 1979(2nd), c. 16, s. 1;
					AM. 1985, c. 7, s. 2;
					AM. 1986, c. 12, s. 11
		57		57	AM. 1979(2nd), c. 16, s. 1
		58		58	AM. 1979(2nd), c. 16, s. 1
					AM. 1980(2nd), c. 17, s. 440
		59		59	AM. 1979(2nd), c. 16, s. 1

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		60-61		60-61	AM. 1975(2nd), c. 15, ss. 6-9; AM. 1979(2nd), c. 16, s. 1
		62-64		62-64	AM. 1979(2nd), c. 16, s. 1
		65		65	AM. 1979(2nd), c. 16, s. 1; AM. 1980(1st), c. 20, s. 2
		66-67		66-67	AM. 1979(2nd), c. 16, s. 1
		68-73		68-73	
		74		74	AM. 1975(2nd), c. 16, s. 10
		75-81		75-81	
		82		82	AM. 1979(2nd), c. 16, s. 2
		83-88		83-88	
		89		89	AM. 1979(2nd), c. 16, ss. 3-4
		90-95		90-95	
		96		96	AM. 1979(2nd), c. 16, s. 5
		97-99		97-99	
		100		100	AM. 1979(2nd), c. 16, s. 6
		101-104		101-104	
		105		105	AM. 1979(2nd), c. 16, ss. 7-8
		106-113		106-113	
		114		114	AM. 1975(2nd), c. 13, s. 11; AM. 1979(2nd), c. 16, s. 9
		115		115	AM. 1976(1st), c. 7, s. 1; AM. 1979(2nd), c. 16, s. 10
		116		116	AM. 1979(2nd), c. 16, s. 11 SEE R.O. 1971, c. L-3 RP. 1984, c. 2, s. 185
14					SEE R.O. 1971, c. C-5
15					N/C
16	1-4				SEE R.O. 1971, c. C-5
	5				N/C
17	1-8				SEE R.O. 1971, c. C-18
	9				N/C
18	1				SEE R.O. 1971, c. F-5
	2				N/C
19					RP. 1981(2nd), c. 16, s. 193
20	1				SEE R.O. 1971, c. L-2
21					RP. 1980(2nd), c. 17, s. 441
22					RP. 1980(2nd), c. 17, s. 441
23					RP. 1977(2nd), c. 4, s. 258
24	1-3				SEE R.O. 1971, c. P-8
	4				N/C
25					N/C N/R
26					N/C
27					N/C
28					N/C
29					N/C
30					N/C N/R
31					N/C N/R
32					N/C N/R
1973	1	1			N/C
		2	13	1	AM. 1973, c. 1, s. 2
		3		2	AM. 1973, c. 1, s. 3; AM. 1981(2nd), c. 1, s. 1
		4		3	AM. 1983, c. 1, s. 4; AM. 1981(2nd), c. 1, s. 2
		5			N/C
	2	1			N/C
		2	36	1	AM. 1984, c. 2, s. 186
		3		2	
		4		3	AM. 1984, c. 2, s. 186;
		5		4	AM. 1984, c. 2, s. 186
		6-15		5-14	
		16-17		15-16	AM. 1984, c. 2, s. 186
		18		17	
		19-20		18-19	AM. 1984, c. 2, s. 186
		21			RP. 1984, c. 2, s. 186
		22		20	AM. 1984, c. 2, s. 186
		23-29			RP. 1984, c. 2, s. 186

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		30-32		21-23	AM. 1984, c. 2, s. 186
		33		24	AM. 1980(1st), c. 20, s. 7
		34		25	AM. 1984, c. 2, s. 186
		35		26	
		35.1		27	EN. 1986, c. 12, s. 5
		36		28	
		37			N/C
		SCHEDULE			AM. 1980(1st), c. 20, s. 7;
					N/C
					N/C
3	1				
	2-17		72	1-16	
	18				N/C
4	1				N/C
	2		74	1	AM. 1985, c. 21, s. 2;
					AM. 1986, c. 6, s. 2
	3			2	AM. 1975(2nd), c. 9, s. 1;
					AM. 1985, c. 21, s. 3
	4			3	AM. 1975(2nd), c. 9, s. 2;
					AM. 1979(1st), c. 2, s. 1;
					AM. 1981(1st), c. 2, s. 1;
					AM. 1985, c. 21, s. 4
	5			4	AM. 1975(2nd), c. 9, s. 3-4;
					AM. 1985, c. 21, s. 5;
					AM. 1986, c. 6, s. 3
	5.1			5	EN. 1985, c. 21, s. 6
	5.2			6	EN. 1985, c. 21, s. 6;
					AM. 1986, c. 6, s. 4
	5.3-5.5			7-9	EN. 1985, c. 21, s. 6
	6			10	
	7			11	AM. 1985, c. 27, s. 7
	8			12	
	9			13	AM. 1975(2nd), c. 9, s. 5;
					AM. 1979(1st), c. 2, s. 2
	10-11			14-15	AM. 1975(2nd), c. 9, ss. 6-7
	12			16	
	13			17	AM. 1979(1st), c. 2, s. 3
	14-16			18-20	
	16.1			21	EN. 1986, c. 6, s. 5
	17			22	AM. 1986, c. 6, s. 6
	17.1-17.4			23-26	EN. 1986, c. 6, s. 7
	18-19			27-28	
	20			29	AM. 1975(2nd), c. 9, s. 8
	21-24			30-33	
	25				SEE R.O. 1971, c. F-11
	26				N/C
5	1				N/C
	2-8		137	1-7	
	9				N/C
6	1				N/C
	2		180	1	AM. 1977(2nd), c. 10, ss. 1-2;
					AM. 1982, c. 35, s. 2
	3			2	AM. 1977(2nd), c. 10, s.1;
					AM. 1982, c. 35, s. 3
	4			3	AM. 1924, c. 35, s. 4
	5			4	AM. 1977(2nd), c. 10, ss. 1 & 3
	5.1			5	EN. 1982, c. 35, s. 5
	6			6	AM. 1977(2nd), c. 10, ss. 1 & 4;
					AM. 1982, c. 35, ss. 6, 36 & 37
	7			7	AM. 1977(2nd), c. 10, s. 1;
					AM. 1977(2nd), c. 10, s. 5
	8				RP. 1982, c. 35, s. 7
	9				RP. 1975(3rd), c. 6, s. 4
	10			8	AM. 1977, c. 10, s. 6;
					AM. 1982, c. 35, s. 8;
					AM. 1983, c. 29, s. 2
	10.1			9	EN. 1977, c. 10, s. 6;
					AM. 1982, c. 35, s. 9



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	11		10		AM. 1977, c. 10, s. 1; AM. 1982, c. 35, ss. 10, 37, 38 & 39
	12		11		AM. 1977, c. 10, s. 1; AM. 1982, c. 35, ss. 37 & 38
	13		12		AM. 1977, c. 10, s. 1; AM. 1982, c. 35, s. 36
	14		13		AM. 1982, c. 35, ss. 36 & 39
	15		14		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 11
	15.1-15.3		15-17		EN. 1982, c. 35, s. 11
	16		18		AM. 1977(2nd), c. 10, s. 7; AM. 1982, c. 35, ss. 36 & 40
	16.1		19		EN. 1977(2nd), c. 10, s. 7; AM. 1982, c. 35, ss. 36, 37 & 40
	16.2		20		EN. 1977(2nd), c. 10, s. 7
	17		21		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 36
	18		22		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 36 & 42
	19		23		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 36 & 39
	20		24		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 36
	21		25		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 12, 36 & 42
	22		26		AM. 1977(2nd), c. 10, s. 8; AM. 1982, c. 35, ss. 13, 37, 38 & 40
	23-24		27-28		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 36
	25		29		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 36, 37 & 39
	26		30		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 14, 36, 37, 38 & 40
	27-29		31-33		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 36
	30		34		AM. 1977(2nd), c. 10, ss. 1 & 9; AM. 1982, c. 35, ss. 15 & 38
	31		35		AM. 1977(2nd), c. 10, s. 10
	32		36		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 38 & 40
	33		37		AM. 1977(2nd), c. 10, s. 11; AM. 1982, c. 35, s. 38
	34		38		
	35		39		AM. 1977, c. 10, s. 1
	36		40		AM. 1977, c. 10, s. 1; AM. 1982, c. 35, s. 38
	37		41		AM. 1982, c. 35, s. 38
	38-39		42-43		AM. 1977, c. 10, s. 1; AM. 1982, c. 35, s. 16
	39.1-39.3		44-46		EN. 1982, c. 35, s. 16
	40-41		47-48		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 16
	41.1-41.2		49-50		EN. 1982, c. 35, s. 16
	42		51		AM. 1977(2nd), c. 10, s. 1
	43		52		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 17
	44		53		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 18
	45		54		AM. 1977(2nd), c. 10, s. 1
	46-48		55-57		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 36
	49		58		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, s. 38
	50		59		AM. 1977(2nd), c. 10, s. 1
	51		60		AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 36, 37, 38 & 39

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		51.1		61	EN. 1977(2nd), c. 10, s. 12;
		52		62	AM. 1982, c. 35, s. 36 AM. 1977(2nd), c. 10, s. 13;
		53		63	AM. 1982, c. 35, s. 19; AM. 1983, c. 19, s. 82
		54		64	AM. 1982, c. 35, s. 20; AM. 1983, c. 19, s. 82
		54.1		65	AM. 1977(2nd), c. 10, s. 14; AM. 1982, c. 35, ss. 36 & 41
		55		66	EN. 1982, c. 35, s. 21; AM. 1983, c. 19, s. 82
		56		67	AM. 1982, c. 35, s. 22;
		57		68	AM. 1983, c. 19, s. 82 AM. 1982, c. 35, s. 23
		58		69	AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 36 & 37
		59		70	AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 24 & 36
		60		71	AM. 1977(2nd), c. 10, ss. 1 & 15; AM. 1984, c. 35, s. 36
		61		72	AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 25 & 36
		62		73	AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 36, 37 & 39
		63-64		74-75	AM. 1982, c. 35, ss. 36 & 40
		65		76	AM. 1982, c. 35, s. 36 AM. 1980(1st), c. 20, s. 28;
		66		77	AM. 1982, c. 35, s. 36 AM. 1977(2nd), c. 10, s. 1;
		67		78	AM. 1982, c. 35, ss. 36, 37 & 39
		68		78	AM. 1982, c. 35, ss. 26 & 36
		69-70		79-80	RP. 1982, c. 35, s. 27
		71		81	AM. 1977(2nd), c. 10, ss. 1 & 16; AM. 1982, c. 35, ss. 28 & 36
		72		82	AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 29, 36, 37, 39 & 40
		73-74		83-84	AM. 1982, c. 35, s. 36
		75		85	AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 30, 36 & 39
		76		86	AM. 1977(2nd), c. 10, s. 1; AM. 1982, c. 35, ss. 31, 36 & 39;
		77		87	AM. 1984, c. 45, s. 30 AM. 1977(2nd), c. 10, s. 1 & 17;
		78		88	AM. 1982, c. 35, ss. 32 & 36 AM. 1984, c. 45, s. 30
		79		89	AM. 1977(2nd), c. 10, s. 1
		80		90	AM. 1982, c. 35, s. 33 AM. 1977(2nd), c. 10, s. 18;
		81		91	AM. 1982, c. 35, s. 34; (1) N/C
		82		91	AM. 1982, c. 35, s. 35
		83			N/C
		84			SEE R.O. 1971, c. W-5
		7			N/C
		8			N/C N/R
		1			SEE R.O. 1971, c. C-16
		2			N/C
		9			SEE R.O. 1971, c. D-2
		1-2			N/C
		3			SEE R.O. 1971, c. F-5
		10			N/C
		1			RP. 1981(2nd), c. 10, s. 193
		2			SEE R.O. 1971, c. I-3
		11			N/C
		12			RP. 1984, c. 5, s. 108
		1-2			
		3			
		13			

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1974(2nd)	14	1-2 3			SEE R.O. 1971, c. M-7 N/C	
	15				RP. 1977(2nd), c. 4, s. 258	
	16	1-2 3			SEE R.O. 1971, c. P-4 N/C	
	17	1-5 6			SEE R.O. 1971, c. P-6 N/C	
	18				RP. 1986, c. 19, s. 42	
	19				N/C	
	20				N/C	
	21				N/C	
	22				N/C	
	23				N/C	
	24				N/C	
	25				N/C N/R	
	26				N/C	
	27				N/C N/R	
	28				N/C N/R	
	29				N/C	
	30				N/C	
	31				N/C	
	32				N/C	
	33				N/C N/R	
	34				N/C N/R	
	1				N/C	
	2				RP. 1983, c. 26, s. 20	
	3	1 2-3 4		170	1-2 3	N/C  AM. 1976(1st), c. 9, s. 1; AM. 1978(1st), c. 12, s. 1; AM. 1981(1st), c. 19, s. 1; AM. 1986, c. 10, s. 2
			5-20 21		4-19	N/C
	4	1				SEE R.O. 1971, c. C-20
	5					RP. 1979(2nd), c. 18, s. 5
	6					RP. 1984, c. 26, s. 79
	7	1-4				SEE R.O. 1971, c. F-2
	8	1				SEE R.O. 1971, c. I-3
	9					RP. 1984, c. 5, s. 108
	10					RP. 1984, c. 46, s. 55
	11					RP. 1977(2nd), c. 4, s. 258
	12	1				SEE R.O. 1971, c. N-3
13	1-4				SEE R.O. 1971, c. P-11	
14	1 2-77 78 79-109 109.1 110-121 122 123-225 226-289 290-294 295 296 SCHEDULE I-V SCHEDULE VI		155	1-76	N/C  N/C  EN. 1980(2nd), c. 22, s. 1  AM. 1984, c. 22, s. 5  SEE R.O. 1971, c. S-3 N/C SEE R.O. 1971, c. S-3 N/C N/C AM. 1983, c. 8, s. 2; N/C	
15					SEE R.O. 1971, c. S-7	
16					N/C	
17					N/C	
18					N/C	
19					N/C	
20					N/C	
21					N/C	
22					N/C N/R	

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1975(1st)		23			N/C	
		24			N/C	
		25			N/C N/R	
		1	1-3		N/C N/R	
			4	3	AM. 1978(1st), c. 3, s. 1;	
					N/C N/R	
			5		AM. 1978(1st), c. 3, s. 2;	
					N/C N/R	
			6-9		N/C N/R	
			10		AM. 1980(2nd), c. 16, s. 2;	
					N/C N/R	
			11-15		N/C N/R	
			16		AM. 1980(2nd), c. 16, s. 2;	
					N/C N/R	
			17-30		N/C N/R	
			31		RP. 1981(1st), c. 11, s. 21	
			32		N/C N/R	
			33-34		AM. 1980(1st), c. 2, s. 1;	
					N/C N/R	
			35		N/C N/R	
			36		AM. 1980(2nd), c. 16, s. 2;	
					N/C N/R	
			37-44		N/C N/R	
			45		AM. 1977(1st), c. 8, s. 2;	
					N/C N/R	
			46-56		N/C N/R	
			57		RP. 1981(1st), c. 11, s. 21	
			58		N/C N/R	
			59		RP. 1981(1st), c. 11, s. 21	
			60-75		N/C N/R	
			75.1		EN. 1975(3rd), c. 4, s. 1;	
					RP. 1976(1st), c. 4, s. 1;	
					EN. 1977(1st), c. 8, s. 1;	
					AM. 1980(2nd), c. 1, s. 1;	
					N/C N/R	
			76-79		N/C N/R	
			80		AM. 1980(2nd), c. 16, s. 2;	
					RP. 1981, c. 11, s. 21	
			81-85		RP. 1981, c. 11, s. 21	
			86		AM. 1980(2nd), c. 16, s. 2;	
					N/C N/R	
			87-108		N/C N/R	
		2	1		N/C	
			2	27	1	AM. 1980(2nd), c. 3, ss. 1-2
			2.1		2	EN. 1980(2nd), c. 3, s. 3
			3		3	AM. 1980(2nd), c. 3, ss. 2 & 4
			4-6		4-6	AM. 1980(2nd), c. 3, s. 2
		7		7	AM. 1980(2nd), c. 3, s. 5	
		8		8	AM. 1980(2nd), c. 3, ss. 2 & 6	
		9-13		9-13	AM. 1980(2nd), c. 3, s. 2	
		14		14	AM. 1980(2nd), c. 3, s. 2;	
					AM. 1985, c. 29, s. 3	
		15-20		15-20	AM. 1980(2nd), c. 3, s. 2	
		21		21	AM. 1980(2nd), c. 3, s. 8.1;	
					AM. 1981(1st), c. 10, s. 1;	
					AM. 1983, c. 15, s. 2	
		22		22	AM. 1980(2nd), c. 3, s. 2	
		23		23	AM. 1976(1st), c. 5, s. 1;	
					AM. 1980(2nd), c. 3, ss. 2 & 7	
		24		24		
		25		25	AM. 1980(2nd), c. 3, s. 2	
		26		26	AM. 1980(2nd), c. 3, s. 8;	
					AM. 1983, c. 15, s. 3	
		27		27	AM. 1983, c. 15, s. 4	
		28		28		
		29		29	AM. 1983, c. 15, s. 5	
		30			N/C	

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	3				N/C
	4				N/C
	5	1			N/C
		2	80	1	AM. 1980(1st), c. 20, s. 11; AM. 1984, c. 11, s. 2
		3		2	AM. 1984, c. 11, s. 3
		4		3	AM. 1984, c. 11, s. 4
		5		4	AM. 1980(1st), c. 13, s. 1
		6		5	AM. 1980(1st), c. 13, s. 2; AM. 1984, c. 11, s. 5
		7		6	AM. 1980(1st), c. 13, s. 3; AM. 1984, c. 11, s. 6
		8		7	AM. 1980(1st), c. 13, s. 4
		9		8	
		10		9	AM. 1980(1st), c. 13, s. 5
		11		10	AM. 1984, c. 11, s. 7
		12		11	AM. 1983, c. 19, s. 88; AM. 1984, c. 11, s. 8
		13		12	AM. 1983, c. 19, s. 88
		14-15		13-14	AM. 1984, c. 11, ss. 9-10
		16			RP. 1984, c. 11, s. 11
	6	1			N/C
		2-5	124	1-4	
	7				N/C
	8				N/C
	9				N/C N/R
	10				N/C
	11				SEE R.O. 1971, c. D-5
	12				SEE R.O. 1971, c. 0-1
	13				REPEALS ORDINANCE N/C N/R IN 1971
	14				RP. 1984, c. 5, s. 106
	15				RP. 1984, c. 46
	16				RP. 1980(2nd), c. 17, s. 441
	17	1-7			SEE R.O. 1971, c. R-5
	18	1			SEE 1972, c. 13
	19				N/C
	20				N/C
	21				N/C N/R
	22				N/C
	23				N/C N/R
1975(2nd)	1				RP. 1980(2nd), c. 17, s. 441
	2	1			AM. 1977(2nd), c. 9, s. 2; N/C
		2	109	1	AM. 1983, c. 28, s. 2
		3		2	AM. 1977(2nd), c. 9, s. 3; (1.1) N/C
		4-6		3-5	
		7			N/C
		8-10		6-8	
		11-13		9-11	AM. 1983, c. 28, ss. 3-5
		14		12	
		15			N/C
		16		13	
		17		14	AM. 1977(2nd), c. 9, s. 4
		18-20		15-17	
		21			N/C
	3	1			AM. 1982, c. 14, s. 2; N/C
		2	163	1	AM. 1978(1st), c. 10, s. 1; AM. 1982, c. 14, ss. 3 & 14
		3		2	AM. 1978(1st), c. 10, s. 2; AM. 1982, c. 14, ss. 4 & 14; AM. 1986, c. 17, s. 2
		4		3	AM. 1982, c. 14, s. 14
		5		4	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, ss. 5 & 14; AM. 1986, c. 17, s. 3

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		6		5	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, ss. 6 & 14; AM. 1986, c. 17, s. 4
		7		6	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, s. 7; AM. 1986, c. 17, s. 5
		7.1		7	EN. 1984, c. 14, s. 8; AM. 1986, c. 17, s. 6
		8		8	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, ss. 9 & 14; AM. 1986, c. 17, s. 7
		9		9	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, ss. 10 & 14
		10		10	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, s. 14; AM. 1985, c. 29, s. 17; AM. 1986, c. 17, s. 8
		11		11	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, s. 14
		12		12	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, s. 11
		13		13	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, s. 12
		14		14	AM. 1978(1st), c. 10, s. 3; AM. 1982, c. 14, ss. 13 & 14; AM. 1983, c. 19, s. 86; AM. 1986, c. 17, s. 9
	4	15-24 1			RP. 1978(1st), c. 10, s. 3 N/C
	5	2-18	172	1-17	N/C
	6				SEE R.O. 1971, c. S-9
	7	1-2			SEE R.O. 1971, c. C-16
	8				RP. 1977(1st), c. 2, s. 158
	9	1-8			SEE 1973, c. 4
	10				RP. 1981(2nd), c. 16, s. 193
	11	1			SEE R.O. 1971, c. H-2
	12	1-2			SEE R.O. 1971, c. H-6
	13	1			SEE R.O. 1971, c. J-1
	14				RP. 1980(2nd), c. 17, s. 441
	15	1-11			SEE 1972, c. 13
	16	1			N/C
		2			SEE R.O. 1971, c. S-10
	17				N/C
	18				N/C
1975(3rd)	1	1			N/C
		2	82	1	AM. 1976(3rd), c. 5, s. 1
		3-29		2-28	
		30		29	AM. 1976(1st), c. 5, ss. 2 & 3
		31-32		30-31	
		32.1		32	EN. 1978(1st), c. 5, s. 1
		33			N/C
	2				RP. 1984, c. 18
	3	1			SEE R.O. 1971, c. A-4
	4				SEE 1975 (1st), c. 1
	5				RP. 1983, c. 13
	6	1-3			RP. 1979(2nd), c. 18, s. 5
		4			SEE 1973, c. 6
		5			RP. 1979(2nd), c. 18, s. 5
	7				RP. 1981(2nd), c. 16, s. 193
	8	1			SEE R.O. 1971, c. H-3
	9				RP. 1984, c. 5, s. 108
	10				RP. 1984, c. 17
	11				RP. 1979(2nd), c. 12, s. 63
	12				RP. 1977(2nd), c. 4, s. 258
	13				SEE R.O. 1971, c. P-4
	14				SEE R.O. 1971, c. P-8
	15				N/C

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1976(1st)	1	1			N/C
		2	84	1	AM. 1980(2nd), c. 10, s. 1
		3		2	AM. 1978(1st), c. 6, s. 1; AM. 1980(2nd), c. 10, s. 2; AM. 1981(1st), c. 4, s. 1
		4		3	AM. 1985, c. 23, s. 2 AM. 1976(3rd), c. 6, s. 1; AM. 1980(2nd), c. 10, s. 3
		5		4	AM. 1980(2nd), c. 10, s. 4
		6		5	AM. 1980(2nd), c. 10, s. 5; AM. 1981(1st), c. 4, s. 2
		7-8		6-7	
		9		8	AM. 1980(2nd), c. 10, s. 6
		9.1		9	EN. 1980(2nd), c. 10, s. 7
		10		10	
		11			N/C
	2	1			N/C
		2	92	1	
		3		2	AM. 1980(2nd), c. 12, s. 1
		4		3	AM. 1976(3rd), c. 7, s. 1
		5			RP. 1980(2nd), c. 12, s. 2
	3	6-11		4-9	
		12			N/C
		1			N/C
		2	106	1	
		3		2	AM. 1980(1st), c. 18, s. 1; AM. 1986, c. 10, s. 1
		4		3	AM. 1977(1st), c. 10, s. 1 AM. 1977(1st), c. 10, s. 2; N/C
		5			RP. 1977(1st), c. 10, s. 2
		6			SEE 1975(1st), c. 1
		7			N/C
		8			SEE 1975(1st), c. 2
		9			N/C
	4	1			RP. 1977(1st), c. 2, s. 158
		2			SEE 1972, c. 13
		3			N/C
		4			SEE 1972, c. 3
		5			N/C
		6			SEE 1974(2nd), c. 3
7				N/C	
8				N/C	
9				N/C	
10				N/C N/R	
11				N/C	
1976(2nd)	12			N/C	
	13			N/C	
	14			N/C	
	15			N/C N/R	
	1			RP. 1983, c. 19, s. 80	
	2			N/C	
		1	141	1-211	
		2-212			N/C N/R
		213-214			N/C
		215-216			SEE R.O. 1971, c. P-10
		217			N/C
	218			N/C N/R	
	SCHEDULE			N/C	
1976(3rd)	3			RP. 1977(2nd), c. 4, s. 258	
	4			SEE 1972, c. 13	
	5			N/C	
	1	1	52	1-2	N/C
		2-3			N/C
	4			N/C	
	1	21	1-14	9(3) N/C	
	2-15			N/C	
	16			N/C	

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1977(1st)	3	1			N/C	
		2	50	1	AM. 1984, c. 38, s. 2	
		3-6		2-5		
		7		6	AM. 1984, c. 38, s. 3	
		8-13		7-12		
		14-16		13-15	AM. 1984, c. 38, ss. 4-6	
		17-18		16-17		
		19-20		18-19	AM. 1984, c. 38, ss. 7-8	
		21-24		20-23		
		25			RP. 1984, c. 38, s. 9	
		26			AM. 1984, c. 38, s. 10	
		27-28		25-26		
		29			N/C	
		30			SEE R.O. 1971. c. E-2	
		31			N/C	
		4			RP. 1983, c. 19, s. 80	
		5	1-3		SEE 1975(3rd), c. 1	
			4		N/C	
		6	1		SEE 1976(1st), c. 1	
			2		N/C	
		7	1		SEE 1976(1st), c. 2	
		8			RP. 1979(2nd), c. 8, s. 23	
		9	1-54		SEE R.O. 1971. c. L-8	
		10			RP. 1980(2nd), c. 17, s. 441	
		11	1-2		SEE R.O. 1971. c. P-11	
		12			SEE R.O. 1971. c. S-5	
		1	1		N/C	
			2	91	1	
			3		2	AM. 1982, c. 21, s. 6
			4-22		3-21	
			23		22	AM. 1982, c. 21, s. 6
		24		23	AM. 1985, c. 25, s. 2	
		25-27		24-26		
		28		27	AM. 1980(2nd), c. 16, s. 9	
		29		28	AM. 1980(1st), c. 20, s. 12	
		30-33		29-32		
		34		33	AM. 1982, c. 21, s. 2	
		35-44		34-43		
		45		44	AM. 1982, c. 21, s. 6	
		46-118		45-117		
		119		118	AM. 1980(1st), c. 15, s. 1	
		120-128		119-127		
		129		128	AM. 1982, c. 2, s. 3	
		130-142		129-141		
		143		142	AM. 1985, c. 25, s. 3	
		144-146		143-145		
		147		146	AM. 1977(2nd), c. 4, s. 257; AM. 1982, c. 21, s. 4	
		148-153		147-152		
		154		153	AM. 1985, c. 29, s. 6	
		155-199		154-198	160(6) N/C	
		200		199	AM. 1980(1st), c. 20, s. 12	
		201-215		200-214		
		216		215	AM. 1982, c. 21, s. 6	
		217-220		216-219		
		220.1		220	AM. 1982, c. 21, s. 6	
		221-226		221-226		
		227		227	AM. 1982, c. 21, s. 6	
		228		228		
		229		229	AM. 1982, c. 21, s. 6	
		230-235		230-235		
		236			SEE R.O. 1971. c. I-2; SEE R.O. 1971. c. M-11	
		237			N/C	
		SCHEDULE			AM. 1982, c. 21, s. 5; N/C	
	2				RP. 1980(1st), c. 5	
	3				N/C	
	4				N/C N/R	



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	5				N/C
		2-3	145	1-2	AM. 1984, c. 27, ss. 2-3
		4-10		3-9	
		11		10	AM. 1986, c. 12, s. 13
		12-23		11-22	
		24		23	AM. 1984, c. 27, s. 4;
					37(3) N/C
		25-55		24-55	N/C
		56		56	AM. 1980(1st), c. 20, s. 24
		57			N/C
	6				RP. 1983, c. 27, s. 28
	7				RP. 1980(1st), c. 29
	8	1			SEE 1975(1st), c. 1
		2			N/C
	9				RP. 1979(2nd), c. 18, s. 5
	10	1			SEE 1976(1st), c. 3
		2			N/C
	11				RP. 1980(2nd), c. 17, s. 441
	12				SEE 1972, c. 13
	13	1			SEE R.O. 1971, c. L-8
		2			N/C
	14				N/C N/R
	15				N/C
	16				N/C
	17				N/C
	18				N/C
	19				N/C
	20				N/C N/R
	21				RP. 1984, c. 45, s. 14
	22				RP. 1980(2nd), c. 17, s. 441
1977(2nd)	1	1			N/C
		2	5	1	AM. 1984, c. 45, s. 2
		3-8		2-7	
		9		8	AM. 1984, c. 45, s. 2
		10		9	
		11		10	AM. 1984, c. 45, s. 2
		12-14		11-13	
		15			N/C
	2	0.5(1)			EN. 1982, c. 1, s. 2;
					N/C
		1	49	1	AM. 1981(2nd), c. 11, s. 2;
					AM. 1982, c. 1, s. 3
		2			AM. 1984, c. 37, s. 2
		3			SEE R.O. 1971, c. E-1
	3	1			N/C
					AM. 1981(2nd), c. 4, s. 2;
		2	48	1	N/C
					AM. 1980(2nd), c. 7, s. 2;
					AM. 1981(2nd), c. 2, s. 3;
					AM. 1983, c. 18, s. 2
		3		2	
		4(1)		13	AM. 1983, c. 18, s. 4
		4(2)		14	AM. 1981(2nd), c. 4, s. 4;
					AM. 1983, c. 18, s. 4
		4(3)-(11)			AM. 1981(2nd), c. 4, s. 4;
					RP. 1983, c. 18, s. 4
		5		15	
		6(1)		18	AM. 1983, c. 18, s. 5
		6(2)		19	AM. 1983, c. 18, s. 5
		6(3)		20	EN. 1983, c. 18, s. 5
		6(4)		16	EN. 1983, c. 18, s. 5
		6.1		21	EN. 1983, c. 18, s. 6
		7		17	AM. 1981(2nd), c. 4, s. 5;
					AM. 1983, c. 18, s. 7
		8(1)		27	AM. 1981(2nd), c. 4, s. 6
		8(2)		28	
		8(3)-(4)		29	
		9(1)-(2)		30	AM. 1981(2nd), c. 4, s. 7

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		9(3)		32	
		9(4)		33	AM. 1983, c. 18, s. 8
		9(5)-(6)		31	
		10(1)		22(1)	
		10(2)		26	
		10(3)		22(2)	
		10(4)		23	AM. 1981(2nd), c. 4, s. 8
		10(5)		24	
		11(1)		34	AM. 1980(2nd), c. 7, s. 3
		11(2)			EN. 1980(2nd), c. 7, s. 3; RP. 1981(2nd), c. 4, s. 9
		12(1)		25	AM. 1980(2nd), c. 7, s. 4; AM. 1983, c. 18, s. 9
		12(2)		41	AM. 1980(2nd), c. 7, s. 4
		13		35	AM. 1981(2nd), c. 4, s. 10
		14(1)		42(1)	
		14(2)		43(1)	AM. 1983, c. 18, s. 10
		14(3)		45	
		14(4)		43(2)	AM. 1981(2nd), c. 4, s. 11; AM. 1983, c. 18, s. 10
		14(5)		44	AM. 1983, c. 18, s. 10
		15(1)		51	AM. 1983, c. 18, s. 11
		15(2)		52	AM. 1980(2nd), c. 7, s. 5
		15(3)		54	
		15(4)		55	
		15(5)		56	
		15(6)		57(1)	
		15(7)		59	
		16(1)		58	
		16(2)			RP. 1981(2nd), c. 4, s. 12
		17		57(2)-(3)	
		18(1)		3	AM. 1985, c. 14, s. 2
		18(2)		5	AM. 1980(2nd), c. 7, s. 6; AM. 1983, c. 18, s. 12
		19(4)		4	
		20(1)		6(1)	
		20(2)		7	
		20(3)			RP. 1980(2nd), c. 7, s. 7
		20(4)		147	AM. 1981(2nd), c. 4, s. 14
		20(5)-(6)		8(1)-(2)	AM. 1983, c. 18, s. 13
		20(7)		9	
		20(8)		10	
		20(9)-(11)		11	EN. 1983, c. 18, s. 13
		21(1)-(2)		74	AM. 1981(2nd), c. 4, s. 15
		21(3)		73	
		21(4)		80	
		21(5)		81	AM. 1981(2nd), c. 4, s. 15; AM. 1983, c. 18, s. 14
		21(6)-(7)		82	AM. 1980(2nd), c. 7, s. 8; AM. 1981(2nd), c. 4, s. 15; AM. 1983, c. 18, s. 14
		21(8)		150	AM. 1981(2nd), c. 4, s. 15
		21(8.1)		151	EN. 1981(2nd), c. 4, s. 15; AM. 1983, c. 18, s. 14
		21(9)		152	AM. 1981(2nd), c. 4, s. 15
		22(1)-(1.2)		65(1)	AM. 1980(2nd), c. 7, s. 9; AM. 1983, c. 18, s. 15
		22(2)		64	AM. 1980(2nd), c. 7, s. 9; AM. 1983, c. 18, s. 15
		22(3)-(4)		68	
		22(5)-(6)		69	
		22(7)		87	AM. 1980(2nd), c. 7, s. 9; AM. 1983, c. 18, s. 15
		22(8)			AM. 1980(2nd), c. 7, s. 9
		22(9)-(10)		99	
		22(11)		92(1)	
		22(12)		91	

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		22(13)		92(2)	AM. 1980(2nd), c. 7, s. 9; AM. 1981(2nd), c. 4, s. 16
		22(14)		70	AM. 1980(2nd), c. 7, s. 9; AM. 1983, c. 18, s. 15
		22(15)		71	
		22(16)		75(1)	AM. 1980(2nd), c. 7, s. 9; AM. 1981(2nd), c. 4, s. 16; AM. 1983, c. 18, s. 15
		22(16.1)		75(2)	EN. 1983, c. 18, s. 15
		22(17)		76	
		22(18)		88	AM. 1980(2nd), c. 7, s. 9; AM. 1981(2nd), c. 4, s. 16
		22(19)		89	AM. 1980(2nd), c. 7, s. 9
		22(20)		95	AM. 1980(2nd), c. 7, s. 9; AM. 1981(2nd), c. 4, s. 16; AM. 1983, c. 18, s. 15
		22(21)		96	AM. 1981(2nd), c. 4, s. 16
		22(21.1)		98	EN. 1981(2nd), c. 4, s. 16
		22(22)		97	AM. 1980(2nd), c. 7, s. 9
		22(23)		138	AM. 1980(2nd), c. 7, s. 9; AM. 1983, c. 18, s. 15
		22(24)		100	AM. 1981(2nd), c. 4, s. 16
		23(1)-(3)		78	AM. 1980(2nd), c. 7, s. 10; AM. 1983, c. 18, s. 16
		23(4)		153	
		23(5)		79	
		23(6)			RP. 1981(2nd), c. 4, s. 17
		24(1)		139(1)	AM. 1980(2nd), c. 7, s. 11
		24(1.1)		139(2)	
		24(2)		139(3)	
		24(3)		144	AM. 1981(2nd), c. 4, s. 18; AM. 1983, c. 18, s. 17
		24(3.1)		143	EN. 1983, c. 18, s. 17
		24(4)		145(1)	AM. 1980(2nd), c. 7, s. 11; AM. 1981(2nd), c. 4, s. 18; AM. 1983, c. 18, s. 17
		24(4.1)		145(2)	
		24(4.2)		150(2)	EN. 1983, c. 18, s. 17
		24(5)		146	AM. 1980(2nd), c. 7, s. 11; AM. 1981(2nd), c. 4, s. 18
		24(6)		154	AM. 1981(2nd), c. 4, s. 18
		25(1)		140	AM. 1980(2nd), c. 7, s. 12; AM. 1981(2nd), c. 4, s. 19
		25(2)		142	AM. 1981(2nd), c. 4, s. 19
		25(3)		148	AM. 1980(2nd), c. 7, s. 12; AM. 1981(2nd), c. 4, s. 19; AM. 1983, c. 18, s. 18
		25(3.1)		149	EN. 1981(2nd), c. 4, s. 19; AM. 1983, c. 18, s. 18
		25(4)		155(1)	
		25(4.1)		155(2)	EN. 1981(2nd), c. 4, s. 19; AM. 1983, c. 18, s. 18
		25(5)		141	
		26		210	AM. 1980(2nd), c. 7, s. 13; AM. 1981(2nd), c. 4, s. 20
		27(1)		60	AM. 1980(2nd), c. 7, s. 14; AM. 1981(2nd), c. 4, s. 21; AM. 1983, c. 18, s. 19
		27(2)-(3)		61	AM. 1981(2nd), c. 4, s. 21
		27(4)		62	
		27(5)		63	AM. 1983, c. 18, s. 19
		27(6)			RP. 1980(2nd), c. 7, s. 14
		28		107	
		29(1)-(3)		108	
		29(4)		109	
		29(5)		114(3)	
		30(1)		53	AM. 1983, c. 18, s. 20
		30(2)-(3)		234	

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		30(4)		392	AM. 1981(2nd), c. 4, s. 22
		31(1)-(2)		110	AM. 1983, c. 18, s. 21
		31(3)		113(1)	AM. 1980(2nd), c. 7, s. 15
		31(4)		111(1)	
		31(5)		113(2)	AM. 1981(2nd), c. 4, s. 23
		31(5.1)		113(3)	EN. 1981(2nd), c. 4, s. 23
		31(6)-(7)		114(1)-(2)	AM. 1980(2nd), c. 7, s. 15; AM. 1981(2nd), c. 4, s. 23
		31(8)		117	
		31(9)		114(4)	
		31(10)		115	
		31(11)		111(2)	
		31(12)		49	
		31(13)		50	AM. 1980(2nd), c. 7, s. 15
		31(14)		118	
		31(15)		120(1)	
		31(15.1)		120(2)	EN. 1980(2nd), c. 7, s. 15
		31(15.2)		119(1)	EN. 1981(2nd), c. 4, s. 23
		31(16)		126	
		31(17)-(18)		116	AM. 1980(2nd), c. 7, s. 15
		31(19)		112(2)	AM. 1980(2nd), c. 7, s. 15
		31.1(1)		46	EN. 1980(2nd), c. 7, s. 16
		31.1(2)		47	EN. 1980(2nd), c. 7, s. 16
		31.1(3)		48	EN. 1980(2nd), c. 7, s. 16
		31.1(4)		86	EN. 1980(2nd), c. 7, s. 16
		32(1)		125	
		33(1)		129	
		33(2)		130	AM. 1983, c. 18, s. 22
		33(3)		85	
		33(4)		131	
		34(1)		128	
		34(2)		127	
		35		121	
		36(1)-(2)		122	AM. 1980(2nd), c. 7, s. 17
		36(3)		123	
		37		124	AM. 1980(2nd), c. 7, s. 18; AM. 1981(2nd), c. 4, s. 24; AM. 1983, c. 18, s. 23
		38(1)		132	AM. 1983, c. 18, s. 24
		38(2)		133	AM. 1981(2nd), c. 4, s. 25
		38(3)		134	AM. 1981(2nd), c. 4, s. 25
		38(4)		135	AM. 1981(2nd), c. 4, s. 25
		38(5)		136	
		38(6)		137	
		39		112(1)	AM. 1980(2nd), c. 7, s. 19
		40(1)-(2)		172	AM. 1980(2nd), c. 7, s. 20; AM. 1983, c. 18, s. 25
		40(3)-(4)		173(1)-(2)	
		40(5)		174	AM. 1981(2nd), c. 4, s. 26
		40(6)		176	AM. 1981(2nd), c. 4, s. 26
		40(7)		177	AM. 1981(2nd), c. 4, s. 26
		40(8)		178	AM. 1981(2nd), c. 4, s. 26
		40(9)		235	
		40(10)		175	EN. 1980(2nd), c. 7, s. 20; AM. 1981(2nd), c. 4, s. 26
		41(1)-(2)		188	AM. 1983, c. 18, s. 26
		41(3)		189	AM. 1980(2nd), c. 7, s. 21
		41(3.1)			EN. 1980(2nd), c. 7, s. 21; RP. 1981(2nd), c. 4, s. 27
		41(4)		190	AM. 1981(2nd), c. 4, s. 27; AM. 1983, c. 18, s. 26
		41(5)		194	
		41(6)-(7)		191	
		41(8)		201	AM. 1983, c. 18, s. 26
		41(9)		202	AM. 1980(2nd), c. 7, s. 21
		41(10)		195	
		41(11)-(12)		204	AM. 1980(1st), c. 20, s. 8

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		41(13)		203	AM. 1980(2nd), c. 7, s. 21; AM. 1983, c. 18, s. 26
		41(14)-(15)		206	
		42(1)		179	AM. 1980(2nd), c. 7, s. 22; AM. 1981(2nd), c. 4, s. 29
		42(2)		180	
		42(3)		181	AM. 1981(2nd), c. 4, s. 29
		42(4)		182	
		43(1)-(2)		183(1)-(2)	AM. 1980(2nd), c. 7, s. 23; AM. 1983, c. 18, s. 27
		43(3)			AM. 1980(2nd), c. 7, s. 23; RP. 1981(2nd), c. 4, s. 30
		43(4)		183(3)	AM. 1980(2nd), c. 7, s. 23
		43(5)		184	
		43(6)			AM. 1980(2nd), c. 7, s. 23; RP. 1981(2nd), c. 4, s. 30
		43(7)		185	AM. 1981(2nd), c. 4, s. 30
		43(8)		186	AM. 1980(2nd), c. 7, s. 23; AM. 1981(2nd), c. 4, s. 30
		43(8.1)		187	EN. 1980(2nd), c. 7, s. 23; AM. 1981(2nd), c. 4, s. 30
		43(9)		390	
		43.1(1)-(3)		157	EN. 1983, c. 18, s. 28
		43.1(4)		158	EN. 1983, c. 18, s. 28
		43.1(5)		159	EN. 1983, c. 18, s. 28
		44(1)		196(1)	AM. 1980(2nd), c. 7, s. 24; AM. 1981(2nd), c. 4, s. 31; AM. 1983, c. 18, s. 29
		44(2)		200	AM. 1980(2nd), c. 7, s. 24; AM. 1983, c. 18, s. 29
		44(3)		196(2)	AM. 1980(2nd), c. 7, s. 24; AM. 1981(2nd), c. 4, s. 31
		45(1)		236	AM. 1981(2nd), c. 4, s. 32
		45(2)		197	AM. 1983, c. 18, s. 30
		45(3)		199	AM. 1981(2nd), c. 4, s. 32; AM. 1983, c. 18, s. 30
		46(1)		227(1)	AM. 1981(2nd), c. 4, s. 33
		46(2)-(3)		240(1)-(2)	AM. 1981(2nd), c. 4, s. 33; AM. 1983, c. 18, s. 31
		46(4)		227(2)	
		46(5)-(6)		227(3)-(4)	AM. 1983, c. 18, s. 31
		46(7)		228(1)	
		46(8)		229	AM. 1981(2nd), c. 4, s. 33
		46(9)		230(1)	AM. 1981(2nd), c. 4, s. 33
		46(10)		232	AM. 1983, c. 18, s. 31
		47(1)		230(2)	AM. 1983, c. 18, s. 32
		47(2)		231	
		47(3)		233	AM. 1983, c. 18, s. 32
		48(1)		237	AM. 1980(2nd), c. 7, s. 25; AM. 1981(2nd), c. 4, s. 34
		48(2)-(4)		238	AM. 1981(2nd), c. 4, s. 34; AM. 1983, c. 18, s. 33
		48(5)-(6)		239	
		48(7)-(8)		240(3)-(4)	AM. 1981(2nd), c. 4, s. 34
		48(9)		243	AM. 1981(2nd), c. 4, s. 34
		48(10)		261	AM. 1980(2nd), c. 7, s. 25; AM. 1983, c. 18, s. 33
		48(11)		262	
		49(1)		252	
		49(2)			AM. 1980(2nd), c. 7, s. 26; RP. 1983, c. 18, s. 34
		49(3)			RP. 1980(2nd), c. 7, s. 26
		49(4)		253	
		49(5)		250	AM. 1980(2nd), c. 7, s. 26
		50(1)-(2)		257	AM. 1981(2nd), c. 4, s. 35; AM. 1983, c. 18, s. 35
		50(3)		254	
		50(4)-(5)		255	

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		51		258	AM. 1981(2nd), c. 4, s. 36
		52		244	AM. 1981(2nd), c. 4, s. 37; AM. 1983, c. 18, s. 36
		53(1)		268	AM. 1980(2nd), c. 7, s. 27; AM. 1981(2nd), c. 4, s. 38
		53(2)		269	AM. 1980(2nd), c. 7, s. 27
		53(3)		271	
		54(1)		241	AM. 1981(2nd), c. 4, s. 39
		54(2)		242	AM. 1980(2nd), c. 7, s. 28
		54(3)		270	
		54(4)		243	AM. 1983, c. 18, s. 37
		54(5)		245	AM. 1983, c. 18, s. 37
		54(6)		256	
		54(7)		246	AM. 1981(2nd), c. 4, s. 39
		54(8)-(9)		247	
		54(10)		251	
		54(11)-(12)		259	
		54(13)		264(1)	AM. 1981(2nd), c. 4, s. 39; AM. 1983, c. 18, s. 37
		54(14)		265	AM. 1983, c. 18, s. 37
		54(15)		266	AM. 1983, c. 18, s. 37
		54(16)		267	AM. 1980(2nd), c. 7, s. 28; AM. 1981(2nd), c. 4, s. 39
		54(17)		264(2)	AM. 1983, c. 18, s. 37 AM. 1980(2nd), c. 7, s. 28; AM. 1983, c. 18, s. 37
		54(18)		207	AM. 1985, c. 9, s. 4
		54(19)		248	
		54(20)-(21)		249	
		55(1)		101	AM. 1981(2nd), c. 4, s. 39 AM. 1981(2nd), c. 4, s. 40;
		55(2)-(3)		102	AM. 1983, c. 18, s. 38 AM. 1980(2nd), c. 7, s. 29;
		55(4)-(6)		103	AM. 1983, c. 18, s. 38 AM. 1980(2nd), c. 7, s. 29;
		55(7)-(9)		104	AM. 1983, c. 18, s. 38 AM. 1980(2nd), c. 7, s. 29;
		55(10)		260	AM. 1983, c. 18, s. 38
		55(11)		263	AM. 1980(2nd), c. 7, s. 29; AM. 1981(2nd), c. 4, s. 40;
		55(12)		105	AM. 1983, c. 18, s. 38
		55(13)		106	AM. 1983, c. 18, s. 38
		55.1(1)		212	EN. 1980(2nd), c. 7, s. 30; AM. 1981(2nd), c. 4, s. 41;
		55.1(1.1)			AM. 1983, c. 18, s. 39 EN. 1981(2nd), c. 4, s. 41;
		55.1(2)		213	RP. 1983, c. 18, s. 39 EN. 1980(2nd), c. 7, s. 30;
		55.1(3)		211	AM. 1983, c. 18, s. 39
		55.1(4)		214	EN. 1983, c. 18, s. 39
		55.1(5)		192	EN. 1983, c. 18, s. 39
		55.1(6)		198	EN. 1983, c. 18, s. 39
		55.1(7)		215	EN. 1983, c. 18, s. 39
		55.1(8)		217	EN. 1983, c. 18, s. 39
		55.1(9)		216	EN. 1983, c. 18, s. 39
		55.1(10)		218	EN. 1983, c. 18, s. 39
		55.1(11)		219	EN. 1983, c. 18, s. 39
		55.1(12)		220	EN. 1983, c. 18, s. 39
		55.1(13)		286	EN. 1983, c. 18, s. 39
		55.2(1)		221	EN. 1983, c. 18, s. 40
		55.2(2)		222	EN. 1983, c. 18, s. 40
		55.2(3)		66	EN. 1983, c. 18, s. 40
		55.2(4)		93	EN. 1983, c. 18, s. 40
		55.2(5)		83	EN. 1983, c. 18, s. 40
		55.2(6)		193	EN. 1983, c. 18, s. 40
		55.2(7)		223	EN. 1983, c. 18, s. 40

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		55.2(8)		224	EN. 1983, c. 18, s. 40
		55.2(9)		225	EN. 1983, c. 18, s. 40
		55.2(10)		226	EN. 1983, c. 18, s. 40
		55.2(11)		287	EN. 1983, c. 18, s. 40
		55.3(1)		94(1)	EN. 1983, c. 18, s. 40
		55.3(2)		67	EN. 1983, c. 18, s. 40
		55.3(3)-(5)		94(2)-(4)	EN. 1983, c. 18, s. 40
		55.3(6)		77	EN. 1983, c. 18, s. 40
		55.3(7)		84	EN. 1983, c. 18, s. 40
		55.3(8)		168	EN. 1983, c. 18, s. 40
		55.3(9)		169	EN. 1983, c. 18, s. 40
		55.3(10)-(11)		288	EN. 1983, c. 18, s. 40
		55.3(12)		170	EN. 1983, c. 18, s. 40
		55.3(13)		171	EN. 1983, c. 18, s. 40
		55.4(1)		160	EN. 1983, c. 18, s. 40
		55.4(2)		161	EN. 1983, c. 18, s. 40
		55.4(3)		162	EN. 1983, c. 18, s. 40
		55.4(4)		163	EN. 1983, c. 18, s. 40
		55.4(5)-(6)		156	EN. 1983, c. 18, s. 40
		55.4(7)		164	EN. 1983, c. 18, s. 40
		55.4(8)		166	EN. 1983, c. 18, s. 40
		55.4(9)		165	EN. 1983, c. 18, s. 40
		55.4(10)		289	EN. 1983, c. 18, s. 40
		55.4(11)-(12)		167	EN. 1983, c. 18, s. 40
		56(1)-(2)		328	AM. 1980(2nd), c. 7, s. 31; AM. 1981(2nd), c. 4, s. 42
		56(3)		329	
		56(4)		330	AM. 1981(2nd), c. 4, s. 42; AM. 1983, c. 18, s. 41
		56(5)		331	AM. 1980(2nd), c. 7, s. 31
		56(6)		332	
		57(1)-(2)		208	AM. 1981(2nd), c. 4, s. 43
		57(3)		209	AM. 1981(2nd), c. 4, s. 43
		57(4)-(15)			RP. 1981(2nd), c. 4, s. 43
		58(1)		272	
		58(2)			RP. 1981(2nd), c. 4, s. 44
		58(3)-(4)		273	AM. 1981(2nd), c. 4, s. 44; AM. 1983, c. 18, s. 42
		58(5)		274	
		59(1)-(2)		276	AM. 1981(2nd), c. 4, s. 46
		59(3)-(4)		277(1)-(2)	AM. 1981(2nd), c. 4, s. 46
		59(5)-(7)		278	AM. 1981(2nd), c. 4, s. 46
		59(8)-(9)		279	AM. 1981(2nd), c. 4, s. 46
		59(10)-(12)		280	AM. 1981(2nd), c. 4, s. 46
		59(13)		277(3)	AM. 1981(2nd), c. 4, s. 46
		59(13.1)		281	EN. 1981(2nd), c. 4, s. 46
		59(13.2)		282	EN. 1981(2nd), c. 4, s. 46
		59(14)		283	AM. 1981(2nd), c. 4, s. 46
		59(15)		284	AM. 1983, c. 18, s. 43
		59(16)			AM. 1980(2nd), c. 7, s. 32; RP. 1981(2nd), c. 4, s. 46
		59(17)-(20)			RP. 1981(2nd), c. 4, s. 46
		59(21)			AM. 1980(2nd), c. 7, s. 32; RP. 1981(2nd), c. 4, s. 46
		59(22)			RP. 1981(2nd), c. 4, s. 46
		59.1(1)-(2)		285(1)-(2)	EN. 1981(2nd), c. 4, s. 46; AM. 1983, c. 18, s. 44
		59.1(3)		290	EN. 1981(2nd), c. 4, s. 46
		59.1(4)		291	EN. 1981(2nd), c. 4, s. 46
		59.1(5)		292	EN. 1981(2nd), c. 4, s. 46
		59.1(6)		285(4)	EN. 1981(2nd), c. 4, s. 46
		59.2(1)		285(3)	EN. 1981(2nd), c. 4, s. 46
		60		275	AM. 1980(2nd), c. 7, s. 33; AM. 1981(2nd), c. 4, s. 47;
		61(1)		293	AM. 1983, c. 18, s. 45 AM. 1981(2nd), c. 4, s. 49; AM. 1983, c. 18, s. 46

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		61(2)		294	AM. 1981(2nd), c. 4, s. 49; AM. 1983, c. 18, s. 46
		61(3)-(4)		295	AM. 1981(2nd), c. 4, s. 49
		61(5)		296	AM. 1981(2nd), c. 4, s. 49
		61(6)		297	AM. 1981(2nd), c. 4, s. 49
		62(1)		298	AM. 1981(2nd), c. 4, s. 50
		62(2)		299	AM. 1981(2nd), c. 4, s. 50
		62(3)		300	
		62(4)-(5)		301	AM. 1981(2nd), c. 4, s. 50
		62(6)		302	AM. 1981(2nd), c. 4, s. 50
		62(7)		303	AM. 1981(2nd), c. 4, s. 50
		63(1)		391(1)	
		64(1)		304	AM. 1980(2nd), c. 7, s. 34; AM. 1981(2nd), c. 4, s. 51
		64(2)		305	AM. 1981(2nd), c. 4, s. 51
		64(2.1)		306	
		64(3)-(4)		307	AM. 1981(2nd), c. 4, s. 51
		64(5)		308(1)	AM. 1981(2nd), c. 4, s. 51
		64(5.1)		308(2)	EN. 1983, c. 18, s. 47
		64(6)		308(3)	AM. 1983, c. 18, s. 47
		64(7)		309	AM. 1983, c. 18, s. 47
		64(8)-(9)		310	AM. 1981(2nd), c. 4, s. 51
		64(10)-(11)		311	
		64(12)-(13)		312	AM. 1981(2nd), c. 4, s. 51
		64(14)		313	
		64(15)		314	AM. 1981(2nd), c. 4, s. 51
		64(16)		315	AM. 1981(2nd), c. 4, s. 51
		64(17)		316	
		64(18)		317	AM. 1981(2nd), c. 4, s. 51
		64(19)		318	AM. 1981(2nd), c. 4, s. 51
		64(20)-(21)		319	
		64(22)-(23)		320	
		65(1)		321	AM. 1981(2nd), c. 4, s. 52
		65(2)-(3)		322	AM. 1980(2nd), c. 7, s. 35; AM. 1981(2nd), c. 4, s. 52; AM. 1983, c. 18, s. 48
		65(4)		323	AM. 1980(2nd), c. 7, s. 35
		65(5)		324	
		65(6)		325	
		65(7)		326	AM. 1981(2nd), c. 4, s. 52; AM. 1983, c. 18, s. 48
		65(8)		333	AM. 1981(2nd), c. 4, s. 52
		65(9)		327	
		66(1)		334	AM. 1980(2nd), c. 7, s. 36
		66(1.1)		335	EN. 1980(2nd), c. 7, s. 36
		66(2)		336	
		67(1)		337	AM. 1981(2nd), c. 7, s. 53
		67(2)		338	
		67(3)-(4)		339	AM. 1983, c. 18, s. 49
		67(5)-(6)		340	
		67(7)-(9)		341	AM. 1983, c. 18, s. 49
		68(1)		36(1)	
		68(2)		38	
		68(3)		39	
		68(4)		72	
		68(5)-(6)		36(2)-(3)	AM. 1981(2nd), c. 4, s. 54
		68(7)		40	
		68(8)		37	AM. 1981(2nd), c. 4, s. 54
		69		361	
		70(1)(a)-(k)		362	AM. 1980(2nd), c. 7, s. 37
		70(1)(L)		363	AM. 1981(2nd), c. 4, s. 55
		70(1)(M)-(U)		364	AM. 1981(2nd), c. 4, s. 55
		70(1)(V)-(Y)		365	
		70(1)(Z)		366	
		70(1)(aa)		367	
		70(1)(bb)		368	
		70(1)(cc)		369	
		70(1)(dd)		370	AM. 1980(2nd), c. 7, s. 37



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		70(2)		371	AM. 1981(2nd), c. 4, s. 55
		70(3)		372	EN. 1981(2nd), c. 4, s. 55
		70.1		373	EN. 1981(2nd), c. 4, s. 56
		71		374	
		72		375	AM. 1983, c. 18, s. 50
		73		376	
		74		349	AM. 1980(2nd), c. 7, s. 38; AM. 1983, c. 18, s. 51
		75(1)		350	
		75(2)		351	
		75(3)		352	
		76		353	
		77(1)-(2)		377	AM. 1981(2nd), c. 4, s. 57
		77(3)		378(1)	
		78(1)		378(2)	
		79		379	AM. 1983, c. 18, s. 52
		80(1)		380	
		80(2)			RP. 1980(2nd), c. 7, s. 39
		81(1)		381	
		81(2)		382	
		81(3)		383	AM. 1981(2nd), c. 4, s. 58
		82		384	
		83			RP. 1980(2nd), c. 7, s. 40
		84		385	
		85		386	
		86		387	
		87		388	
		88		389	
		89			RP. 1981(2nd), c. 4, s. 59
		90(1)		12(1)	AM. 1981(2nd), c. 4, s. 60; AM. 1983, c. 18, s. 53
		90(2)		205	
		90(3)		12(2)	
		91(1)		354	AM. 1981(2nd), c. 4, s. 61
		91(2)		355	
		92		356	
		93(1)		358	AM. 1981(2nd), c. 4, s. 62
		93(2)		359	
		94		360	
		95		357	
		96(1)		342	
		96(2)-(4)		343	
		97(1)		344	
		97(2)		345	
		97(3)		346	
		97(4)		347	
		97(5)-(6)		348	AM. 1980(2nd), c. 7, s. 41 RP. 1980(2nd), c. 7, s. 42
		98			AM. 1981(2nd), c. 4, s. 63
		99		393	AM. 1981(2nd), c. 4, s. 64
		100		394	
		100.1		395	
		101			RP. 1980(2nd), c. 7, s. 43
		102			N/C
		103			SEE R.O. 1971, c. C-15
		104			SEE R.O. 1971, c. E-1
		105			N/C
		FORM 1			N/C
		FORM 2			AM. 1983, c. 18, s. 54; N/C
		FORM 3			N/C
		FORM 4			AM. 1980(2nd), c. 7, s. 44; AM. 1983, c. 18, s. 55; N/C
		FORM 4A			EN. 1983, c. 18, s. 56; N/C
4		1			N/C
		2	118	1	AM. 1980(1st), c. 32, s. 26; AM. 1982, c. 26, s. 2

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		3-4		2-3	AM. 1982, c. 26, ss. 3-4
		5			RP. 1982, c. 26, s. 5
		6		4	AM. 1982, c. 26, s. 4
		7		5	AM. 1982, c. 26, s. 6
		8		6	AM. 1983, c. 24, s. 2
		9		7	AM. 1982, c. 26, s. 7
		10			
		11			AM. 1982, c. 26, s. 7
		12		10	AM. 1982, c. 26, s. 4
		13-13.1		11-12	
		13.2		13	AM. 1982, c. 26, s. 21
		13.3-16		14-17	
		17		18	AM. 1982, c. 26, s. 8
		18		19	AM. 1982, c. 26, s. 7
		19		20	
		20-21		21-22	AM. 1982, c. 26, ss. 9-10
		22		23	AM. 1982, c. 26, s. 3
		23		24	AM. 1982, c. 26, s. 11
		23.1		25	AM. 1982, c. 26, s. 4
		24-31		26-33	
		32		34	AM. 1982, c. 26, s. 12
		33-34		35-36	
		35		37	AM. 1982, c. 26, s. 3
		36		38	AM. 1980(1st), c. 21, s. 1; AM. 1982, c. 26, ss. 3 & 13; RP. 1982, c. 26, s. 14
		36.1			
		36.2		39	
		37-38		40-41	AM. 1982, c. 26, s. 3
		39		42	
		40		43	AM. 1982, c. 26, s. 3
		41-47		44-51	
		48		52	AM. 1982, c. 26, s. 21
		49		53	
		50		54	AM. 1982, c. 26, s. 3
		51-58		55-63	
		59		64	AM. 1982, c. 26, ss. 4 & 20
		60		65	
		61		66	AM. 1982, c. 26, s. 3; AM. 1984, c. 23, s. 2
		62		67	AM. 1983, c. 24, s. 3; AM. 1984, c. 23, s. 3; AM. 1985, c. 30, s. 2
		63		68	AM. 1980(1st), c. 20, s. 19; AM. 1982, c. 26, s. 15
		64		69	AM. 1982, c. 26, ss. 3, 4,
		65-67		70-72	AM. 1982, c. 26, s. 4
		67.1		73	AM. 1982, c. 26, s. 20
		67.2		74	
		67.3		75	AM. 1982, c. 26, s. 20
		67.4-87		76-97	
		88		98	AM. 1982, c. 26, s. 4
		89-91		99-101	
		92			RP. 1982, c. 26, s. 16
		93-95		102-104	
		96		105	AM. 1982, c. 26, s. 21
		97-101		106-110	
		102		111	AM. 1982, c. 26, ss. 3 & 21
		103-107		112-116	AM. 1982, c. 26, s. 3
		108-110		117-119	
		110.1			RP. 1980(2nd), c. 17, s. 44
		111		120	
		112		121	AM. 1983, c. 24, s. 12
		113-129			RP. 1983, c. 24, s. 13
		129.1		122	AM. 1983, c. 24, s. 14
		130-135.1			RP. 1983, c. 24, s. 13
		136		123	
		137-139			RP. 1983, c. 24, s. 13
		140		124	AM. 1982, c. 26, s. 4

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		141		125	
		142		126	AM. 1982, c. 26, s. 4
		142.1			RP. 1983, c. 24, s. 13
		143-144		127-128	
		145		129	AM. 1982, c. 26, s. 4
		146-180		130-164	
		181		165	AM. 1980(1st), c. 20, s. 19
		182-210		166-194	
		211		195	AM. 1982, c. 26, s. 21
		212-239		196-223	
		240		224	AM. 1983, c. 24, s. 4
		241		225	
		241.1		226	EN. 1980(1st), c. 20, s. 19; AM. 1982, c. 26, s. 3; AM. 1983, c. 24, s. 5; AM. 1984, c. 23, s. 4
		242-244		227-229	
		244.1		230	EN. 1983, c. 24, s. 6
		245		231	AM. 1982, c. 26, s. 17; AM. 1983, c. 24, s. 7; AM. 1985, c. 30, s. 3
		246		232	AM. 1985, c. 30, s. 4
		246.1			EN. 1983, c. 24, s. 8; AM. 1984, c. 23, s. 5; RP. 1985, c. 29, s. 21
		246.2-246.3			EN. 1983, c. 24, s. 21; RP. 1985, c. 29, s. 21
		247		233	AM. 1982, c. 26, s. 18; AM. 1983, c. 24, s. 9; AM. 1985, c. 30, s. 5
		247.1		234	EN. 1982, c. 26, s. 18; AM. 1983, c. 24, s. 10; AM. 1985, c. 30, s. 6
		247.2-247.3		235-236	EN. 1982, c. 26, s. 18
		248		237	AM. 1982, c. 26, s. 19
		249		238	
		250			RP. 1981(2nd), c. 11, s. 4
		251-255		239-243	
		256			RP. 1980(1st), c. 30, s. 35
		257			SEE 1977(1st), c. 1
		258			SEE R.O. 1971, c. M-11
		259			N/C
	5	1			SEE R.O. 1971, c. C-12
	6				RP. 1980(2nd), c. 17, s. 441
	7				RP. 1980(2nd), c. 17, s. 441
	8	1-7			SEE R.O. 1971, c. P-1
		8			N/C
	9	1			N/C
		2-4			SEE 1975(2nd), c. 2
	10	1-18			SEE 1973, c. 6;
		19			(2) CONSOLIDATED
					N/C
	11				N/C
	12				N/C
1978(1st)	I	1			AM. 1982, c. 6, s. 2; N/C
		2	132	1	AM. 1981(2nd), c. 11, s. 7; AM. 1982, c. 6, s. 4
		3		2	AM. 1981(1st), c. 13, s. 1; AM. 1982, c. 6, s. 3; AM. 1984, c. 47, s. 2
		4		3	AM. 1981(1st), c. 13, s. 2; AM. 1982, c. 6, s. 4
		5		4	AM. 1980(1st), c. 20, s. 22; AM. 1981(2nd), c. 11, s. 7
		6-7		5-6	AM. 1982, c. 6, ss. 4-5
		8		7	AM. 1980(1st), c. 20, s. 22; AM. 1982, c. 6, s. 4

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		9		8	AM. 1981(1st), c. 13, s. 3; AM. 1982, c. 6, s. 6; AM. 1984, c. 47, s. 3
	2	10 1		9	EN. 1981(1st), c. 13, s. 3 AM. 1982, c. 9, s. 2; N/C
		2	102	1	AM. 1979(2nd), c. 18, s. 1; AM. 1982, c. 9, ss. 3, 4 & 5
		3		2	AM. 1982, c. 9, ss. 3 & 4
		4		3	AM. 1982, c. 9, s. 4
		5		4	AM. 1982, c. 9, ss. 3 & 4
		6		5	AM. 1982, c. 9, ss. 4 & 6
		7		6	AM. 1979(2nd), c. 18, s. 2; AM. 1980(2nd), c. 25, s. 1; AM. 1982, c. 9, ss. 3, 4 & 7
		8		7	AM. 1980(2nd), c. 25, s. 2; AM. 1982, c. 9, s. 7
		9			RP. 1980(2nd), c. 25, s. 2
		10-11		8-9	AM. 1982, c. 9, ss. 3 & 4
		12		10	AM. 1980(2nd), c. 25, s. 3; AM. 1982, c. 9, ss. 3 & 4
		13-14		11-12	AM. 1982, c. 9, ss. 3 & 4
		15		13	AM. 1982, c. 9, s. 4
		16-19		14-17	AM. 1982, c. 9, ss. 3 & 4
		20-21		18-19	AM. 1982, c. 9, s. 4
		22		20	AM. 1982, c. 9, s. 3
		23-32		21-30	AM. 1982, c. 9, s. 4
		33		31	AM. 1982, c. 9, s. 3
		34-40		32-38	AM. 1982, c. 9, s. 4
		40.1		39	EN. 1979(2nd), c. 18, s. 3; AM. 1981(1st), c. 20, s. 1; AM. 1983, c. 22, s. 2; AM. 1984, c. 43, s. 2
		40.2		40	EN. 1979(2nd), c. 18, s. 3; AM. 1981(1st), c. 20, s. 2; AM. 1982, c. 9, s. 4; AM. 1983, c. 22, s. 3; AM. 1984, c. 43, s. 3
		40.3		41	EN. 1979(2nd), c. 18, s. 3; AM. 1981(1st), c. 20, s. 3; AM. 1982, c. 9, s. 4; AM. 1983, c. 22, s. 4; AM. 1984, c. 43, s. 4
		40.4		42	EN. 1979(2nd), c. 18, s. 3; AM. 1983, c. 22, s. 5; AM. 1984, c. 43, s. 5
		40.5		43	EN. 1979(2nd), c. 18, s. 3; AM. 1982, c. 9, s. 4; AM. 1983, c. 22, s. 6; AM. 1984, c. 43, s. 6
		40.6		44	EN. 1979(2nd), c. 18, s. 3; AM. 1981(1st), c. 20, s. 4; AM. 1982, c. 9, s. 8; AM. 1982, c. 24, s. 2; AM. 1983, c. 22, s. 7
		40.7		45	EN. 1979(2nd), c. 18, s. 3; AM. 1981(1st), c. 20, s. 5; AM. 1982, c. 9, s. 4; AM. 1984, c. 23, s. 2
		40.7.1		46	EN. 1983, c. 23, s. 3
		40.8		47	EN. 1979(2nd), c. 18, s. 3
		40.9		48	EN. 1979(2nd), c. 18, s. 3 AM. 1982, c. 9, s. 4; AM. 1983, c. 23, s. 4
		40.10		49	EN. 1979(2nd), c. 18, s. 3
		40.11		50	EN. 1979(2nd), c. 18, s. 3; AM. 1982, c. 9, ss. 3, 4 & 8

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		40.12		51	EN. 1983, c. 23, s. 5
		41		52	AM. 1979(2nd), c. 18, s. 4; AM. 1982, c. 9, s. 9 SEE R.O. 1971, c. I-1
		42			N/C
	3	43			N/C
		1-2			SEE 1975(1st), c. 1
		3			N/C
	4				RP. 1979(2nd), c. 18, s. 5
	5	1			SEE 1975(3rd), c. 1
	6	1			SEE 1976(1st), c. 1
		2			N/C
	7				RP. 1979(2nd), c. 12, s. 63
	8				RP. 1984, c. 46
	9				RP. 1980(1st), c. 29
	10	1-3			SEE 1975(2nd), c. 3
		4			N/C
		5			SEE R.O. 1971, c. S-9
		6			N/C
	11				SEE 1972, c. 13
	12	1			SEE 1974(2nd), c.3
		2			N/C
	13				N/C N/R
	14				N/C N/R
	15				N/C
	16				N/C
	17				N/C
	18				N/C
	19				N/C N/R
	20				N/C
	21				N/C N/R
1979(1st)	1	1-3			SEE R.O. 1971, c. D-2
		4			N/C
	2	1-3			SEE 1973, c. 4
		4			N/C
	3				N/C
	4				N/C
	5				N/C
	6				N/C
	7				N/C
	8				N/C N/R
	9				N/C
1979(2nd)	10				N/C N/R
	1				N/C
		2	11	1	
		3		2	
		4-11		3-10	AM. 1980(2nd), c. 16, s. 1
		12		11	AM. 1980(2nd), c. 16, s. 1
		13-40		12-39	
		41-42			N/C
		43			SEE R.O. 1971, c. S-8
		44			N/C
	2	1-3			CONSOLIDATED
		4			SEE R.O. 1971, c. I-3
		5-8			SEE R.O. 1971, c. M-1
		9			N/C
	3	1			N/C
		2-3	40	1-2	
		4		3	AM. 1980(2nd), c. 16, s. 4; 4(4) N/C
		5-8		4-7	
		9		8	AM. 1983, c. 19, s. 84
		10		9	
		11			N/C
	4				N/C
	5				RP. 1981(2nd), c. 16, s. 193
	6				RP. 1981(2nd), c. 16, s. 193
	7	1			N/C

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		2-3 4	90	1-2 3	AM. 1980(2nd), c. 11, s. 1; AM. 1983, c. 4, s. 2; AM. 1984, c. 13, s. 3; AM. 1985, c. 24, s. 2
		5		4	AM. 1980(2nd), c. 11, s. 1; AM. 1983, c. 4, s. 3; AM. 1984, c. 13, s. 2; 5(1.3) N/C
		5.1		5	EN. 1981(2nd), c. 7, s. 1; AM. 1985, c. 24, s. 3
		6-11 12 13		6-11 12 13	AM. 1983, c. 4, s. 4 AM. 1983, c. 4, s. 5; AM. 1985, c. 24, s. 4 AM. 1985, c. 24, s. 5
		14 15-16 17		14 15-16 17	AM. 1984, c. 13, s. 4
		18-19 20 21		18-19 20 21	AM. 1985, c. 24, s. 6 AM. 1983, c. 4, s. 6
		22-35 36		22-35 36	AM. 1983, c. 4, s. 7; AM. 1985, c. 24, s. 7 EN. 1985, c. 24, s. 8
		36.1-36.2 37-38 39		37-38 39-40 41	AM. 1983, c. 4, s. 8 AM. 1985, c. 24, s. 10 EN. 1985, c. 24, s. 9
		39.1 40-42 43		42 43-45 46	AM. 1983, c. 4, s. 9
		44-57 57.1-57.4 58 59		47-60 61-64 65	EN. 1980(2nd), c. 11, s. 1 N/C
	8				RP. 1983, c. 10, s. 13
	9				RP. 1984, c. 17
	10				RP. 1985, c. 29, s. 21
	11	1			AM. 1980(2nd), c. 15, s. 1; N/C
		2	63	1	AM. 1980(2nd), c. 15, s. 2; AM. 1984, c. 2, s. 191
		3		2	AM. 1980(2nd), c. 15, s. 3; AM. 1980(2nd), c. 16, s. 10 AM. 1980(2nd), c. 15, s. 4
		4 5-10 11-12 13-14 15 16-30 30.1-30.10 30.11		3 4-9 10-11 12-13 14 15-29 30-39 40	AM. 1980(2nd), c. 15, ss. 5-6 AM. 1980(2nd), c. 16, s. 10 EN. 1980(2nd), c. 15, s. 7 EN. 1980(2nd), c. 15, s. 7; AM. 1986, c. 11, s. 32
		30.12-30.14 30.15		41-43 44	EN. 1980(2nd), c. 15, s. 7 EN. 1980(2nd), c. 15, s. 7; AM. 1986, c. 11, s. 32
		30.16-30.17 30.18 30.19		45 46	RP. 1986, c. 11, s. 32 EN. 1980(2nd), c. 15, s. 7 EN. 1980(2nd), c. 15, s. 7; AM. 1981(2nd), c. 11, s. 3; N/C
		30.20-30.22 30.23 30.24-30.25 31-32 32.1		46-48 49-50 51-52 53	EN. 1980(2nd), c. 15, s. 7 RP. 1986, c. 11, s. 32 EN. 1980(2nd), c. 15, s. 7 AM. 1980(2nd), c. 15, s. 9 EN. 1980(2nd), c. 15, s. 10; AM. 1985, c. 28, ss. 2-3

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1980(1st)		32.2		54	EN. 1980(2nd), c. 15, s. 10
		33		55	AM. 1980(2nd), c. 15, s. 11
		33.1		56	EN. 1980(2nd), c. 15, s. 12; AM. 1986, c. 11, s. 32
		34-35		57-58	
		36		59	AM. 1980(2nd), c. 15, s. 14
		37-39		60-62	
		39.1		63	EN. 1980(2nd), c. 15, s. 15
		40-43		64-67	
		44			N/C
	12	1			N/C
		2	114	1	AM. 1980(2nd), c. 16, s. 11
		3-19		2-18	10(2) N/C
		20		19	AM. 1980(2nd), c. 16, s. 11
		21-23		20-22	
		24		23	AM. 1985, c. 29, s. 9
		25-29		24-28	
		30		29	AM. 1985, c. 29, s. 9
		31-32		30-31	
		33		32	AM. 1980(2nd), c. 16, s. 11
		34-36		33-35	
		37		36	AM. 1980(2nd), c. 16, s. 11
		38		37	AM. 1984, c. 36, s. 11
		39-49		38-48	
		50		49	AM. 1983, c. 13, s. 284
		51		50	
		52		51	AM. 1983, c. 13, s. 284
		53		52	
		54		53	AM. 1983, c. 13, s. 284
		55		54	AM. 1980(2nd), c. 16, s. 11
		56-61		55-60	
		62		61	AM. 1980(2nd), c. 16, s. 11
		63			SEE R.O. 1971, c. M-6; (2) N/C
	13	1			N/C
		2	126	1	AM. 1980(2nd), c. 16, s. 12
		3-21		2-20	
		22		21	AM. 1983, c. 19, s. 85
		23			N/C
	14	1			N/C
		2	153	1	AM. 1985, c. 35, s. 2
		3-11		2-10	
		12		11	AM. 1985, c. 35, s. 3
		13-14		12-13	
		15			N/C
	15	1			SEE R.O. 1971, c. T-2
		2			N/C
	16	1-11			SEE 1972, c. 13
		12			N/C
	17				N/C
	18	1-4			SEE 1978(1st), c. 2
		5			SEE R.O. 1971, c. E-1
		6			N/C
		1			N/C
		2	16	1	
		3-5		2-4	AM. 1984, c. 1, s. 5
		6		5	AM. 1984, c. 45, s. 5
		7		6	AM. 1984, c. 1, s. 5; AM. 1984, c. 45, s. 5
		8-9		7-8	AM. 1984, c. 1, s. 5
		10-11		9-10	
		12		11	AM. 1984, c. 1, s. 5
		13		12	AM. 1984, c. 1, ss. 2 & 5
		14-15		13-14	
		16-17		15-16	AM. 1984, c. 1, s. 5
		18-20		17-19	
		21-22		20-21	AM. 1984, c. 1, s. 5

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		23-25			RP. 1984, c. 1, s. 3
		26		22	AM. 1984, c. 1, ss. 4-5
		27			N/C
2	1	2			SEE 1975(1st), c. 1
		2			N/C
3					RP. 1983, c. 13
4	1	2			SEE R.O. 1971, c. C-12
					N/C
5					N/C
6					N/C N/R
7	1				SEE R.O. 1971, c. E-6
		2			N/C
8	1				N/C
		2-3	58	1-2	AM. 1986, c. 16, s. 16
		4		3	
		5		4	AM. 1986, c. 16, s. 16
		6-37		5-36	
		38		37	AM. 1986, c. 16, s. 16
		39-43		38-42	
		44			N/C
9	1				N/C
		2-15	64	1-14	
		16			SEE R.O. 1971, c. F-3
		17			N/C
10					N/C N/R
11	1				N/C
		2-10	73	1-9	
		11			SEE R.O. 1971, c. F-10
		12			N/C
12	1				N/C
		2-54	78	1-53	
		55		54	AM. 1986, c. 16, s. 15
		56-59		55-58	
		60			SEE R.O. 1971, c. G-4
		61			N/C
13	1-5				SEE 1975(1st), c. 5
		6			N/C
14	1				N/C
		2-12	89	1-11	
		13			N/C
		14-15		12-13	
		16			SEE R.O. 1971, c. C-17
		17			N/C
15	1				SEE 1977(1st), c. 1
		2			N/C
16					N/C
17	1-2				SEE R.O. 1971, c. L-8
		3			N/C
18	1				SEE 1976(1st), c. 3
		2			N/C
19					RP. 1980(2nd), c. 14, s. 5
20	1				N/C
		2			SEE 1972, c. 13
		3			SEE R.O. 1971, c. B-3
		4			SEE R.O. 1971, c. B-5
		5			SEE R.O. 1971, c. C-14
		6			RP. 1980(2nd), c. 20, s. 74
		7			SEE 1973, c. 2
		8			SEE 1977(2nd), c. 3
		9			SEE R.O. 1971, c. E-6
		10			SEE R.O. 1971, c. F-9
		11			SEE 1975(1st), c. 5
		12			SEE 1977(1st), c. 1
		13			SEE R.O. 1971, c. I-3
		14			SEE R.O. 1971, c. L-2
		15			RP. 1984, c. 17
		16			RP. 1984, c. 17



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		17			SEE R.O. 1971, c. L-8; (1) N/C
		18			SEE R.O. 1971, c. M-7
		19			SEE 1977(2nd), c. 4
		20			RP. 1980(2nd), c. 17, s. 441
		21			SEE R.O. 1971, c. P-1
		22			SEE 1978(1st), c. 1
		23			SEE R.O. 1971, c. P-6
		24			SEE 1977(1st), c. 5
		25			SEE R.O. 1971, c. R-4
		26			SEE R.O. 1971, c. S-5
		27			SEE R.O. 1971, c. S-7
		28			AM. 1981(1st), c. 10, s. 6; SEE 1973, c. 6
		29			N/C
		30			N/C
		31			N/C
21	1				SEE 1977(2nd), c. 4
	2				N/C
22					N/C N/R
23	1				N/C
	2-25		129	1-24	
	26				SEE R.O. 1971, c. P-3
	27				N/C
24	1				N/C
	2-7		135	1-6	
	8				SEE R.O. 1971, c. P-7
	9				N/C
25	1				N/C
	2		148	1	AM. 1986, c. 11, s. 33
	3			2	AM. 1985, c. 34, s. 2
	4			3	AM. 1986, c. 11, s. 33
	5-6			4-5	AM. 1985, c. 34, ss. 3-4; AM. 1986, c. 11, s. 33
	7			6	AM. 1986, c. 11, s. 33
	8			7	AM. 1985, c. 34, s. 5; AM. 1986, c. 11, s. 33
	9			8	
	10			9	AM. 1985, c. 34, s. 6; AM. 1986, c. 11, s. 33
	11			10	
	12			11	AM. 1986, c. 11, s. 33
	13			12	AM. 1985, c. 34, s. 7; AM. 1986, c. 11, s. 33
	14			13	
	15			14	AM. 1985, c. 34, s. 8; AM. 1986, c. 11, s. 33
	16			15	
	17-18			16-17	AM. 1986, c. 11, s. 33
	19			18	AM. 1985, c. 34, s. 9
	20			19	
	21				N/C
	22				SEE R.O. 1971, c. R-2
26					N/C
27					N/C
28	1				SEE R.O. 1971, c. J-1
	2				SEE R.O. 1971, c. M-1
	3				SEE R.O. 1971, c. T-2
	4				N/C
29					SEE 1977(1st), c. 7
30	1				N/C
	2-4		164	1-3	
	4.1-4.3			4-6	EN. 1985, c. 38, s. 2
	5-10			7-12	
	11			13	AM. 1985, c. 38, s. 3
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		30		32	AM. 1985, c. 38, s. 6	
		31-33		33-35		
		34			RP. 1980(2nd), c. 15	
		35			SEE R.O. 1971, c. I-3, c. J-1; SEE 1972, c. 10; SEE 1977(2nd), c. 4	
		36			N/C	
		31	1	167	1	N/C
			2			
			3			SEE R.O. 1971, c. S-11
			4			N/C
		32	1-25			SEE R.O. 1971, c. T-4
			26			SEE 1977(2nd), c. 4
			27			N/C
		33	1			SEE R.O. 1971, c. T-5
			2			N/C
		34				N/C
		1	1			SEE 1975(1st), c. 1
			2			N/C
		2				RP. 1983, c. 13
		3	1-8.1			SEE 1975(1st), c. 2
		4	1-4			SEE R.O. 1971, c. C-16
		5	1			SEE R.O. 1971, c. D-1
		6	0.9			EN. 1981(1st), c. 10, s. 3; N/C
			1-20	44	1-20	
			21		21	AM. 1981(1st), c. 10, s. 3
			22		22	
			23			SEE R.O. 1971, c. D-3; (2) N/C
			24			N/C
		7	1-43			SEE 1977(2nd), c. 3
			44			N/C
			45			N/C
		8				N/C
		9				RP. 1981(2nd), c. 16, s. 193
		10	1-7			SEE 1976(1st), c. 1
		11	1			SEE 1979(2nd), c. 7
			2			N/C
		12	1-2			SEE 1976(1st), c. 2
			3			SEE R.O. 1971, c. F-5
		13				RP. 1986, c. 12, s. 10
		14				N/C
		15	1-15			SEE 1979(2nd), c. 11
			16			SEE R.O. 1971, c. M-2
			17			SEE R.O. 1971, c. J-1
		18			N/C	
	16	1			SEE 1979(2nd), c. 1	
		2			SEE 1975(1st), c. 1	
		3			N/C N/R	
		4			SEE 1979(2nd), c. 3	
		5			SEE R.O. 1971, c. D-7	
		6			SEE R.O. 1971, c. F-1	
		7			SEE R.O. 1971, c. F-5	
		8			RP. 1981(2nd), c. 16, s. 193	
		9			SEE 1977(1st), c. 1	
		10			SEE 1979(2nd), c. 11	
		11			SEE 1979(2nd), c. 12	
		12			SEE 1979(2nd), c. 13	
		13			SEE R.O. 1971, c. S-6	
		14			SEE R.O. 1971, c. T-4	
	17	1			N/C	
		2	119	1	AM. 1983, c. 13, s. 284; AM. 1983, c. 25, s. 2	
		3-5		2-4		

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		7		6	AM. 1983, c. 25, s. 4; (7) N/C
		8-10		7-9	AM. 1983, c. 25, ss. 5-7
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		13		12	AM. 1983, c. 25, s. 8
		14		13	
		15		14	AM. 1983, c. 25, s. 9
		15.1-15.2		15-16	EN. 1983, c. 25, s. 9
		16		17	AM. 1983, c. 25, s. 10; (5) N/C
		17		18	AM. 1983, c. 25, s. 11
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		22		23	AM. 1983, c. 25, s. 12
		23-32		24-33	
		33		34	AM. 1981(1st), c. 10, s. 7; AM. 1983, c. 25, s. 13; (4) N/C
		34		35	AM. 1983, c. 25, s. 14
		34.1		36	EN. 1983, c. 25, s. 15
		35		37	AM. 1985, c. 4, s. 2
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		64		66	AM. 1983, c. 25, s. 18
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		204			RP. 1983, c. 25, s. 50
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		235		228	AM. 1983, c. 25, s. 66
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		284		272	AM. 1983, c. 25, s. 92
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		302		289	AM. 1983, c. 25, s. 99
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		304		291	AM. 1981(1st), c. 10, s. 7

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		315		301	AM. 1981(1st), c. 10, s. 7; AM. 1983, c. 25, s. 105
		316		302	AM. 1983, c. 25, s. 105
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		371			RP. 1983, c. 25, s. 134
		372		353	AM. 1983, c. 25, s. 135; (3) N/C
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		439-440(1)		418-419	
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		440(3)			SEE 1977(2nd), c. 4
		440(4)-(6)			SEE 1977(1st), c. 6
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		440(10)			EN. 1983, c. 25, s. 163; N/C
		441			SEE R.O. 1971, c. L-9; SEE 1972, c. 10; SEE 1972, c. 12; SEE 1975(2nd), c. 1
		442			AM. 1981(2nd), c. 13, s. 1; AM. 1982, c. 13, s. 3; AM. 1983, c. 25, s. 164; N/C N/C N/R SEE R.O. 1971, c. P-1; N/C
18					
19	1				
20	1				
		2-5	130	1-4	AM. 1982, c. 30, ss. 2-5; 1(3) N/C
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		15-16		14-15	
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		18		17	AM. 1982, c. 30, s. 11; AM. 1986, c. 12, s. 12
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		36		35	AM. 1982, c. 30, s. 18
		37		36	AM. 1982, c. 30, s. 19; AM. 1986, c. 12, s. 12
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		40		39	AM. 1982, c. 30, s. 20
		41		40	
		42-46		41-45	AM. 1982, c. 30, ss. 21-25; 46(6)(a) N/C
		47-49		46-48	
		50		49	AM. 1982, c. 30, s. 26
		51			RP. 1982, c. 30, s. 27
		52		50	AM. 1982, c. 30, s. 28; AM. 1986, c. 12, s. 12; 52(7) & (8) N/C
		53-61		51-59	AM. 1982, c. 30, ss. 29-37; 61(7) & 64(4)(b) N/C
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		71		69	AM. 1982, c. 30, s. 43	
		72		70		
		73			N/C	
		74			SEE R.O. 1971, c. A-5 & B-1; SEE R.O. 1971, c. C-11 & C-19	
		75			SEE R.O. 1971, c. C-6	
		76			AM. 1982, c. 30, s. 44	
		77			AM. 1982, c. 30, s. 45; SEE R.O. 1971, c. D-6	
		78			SEE R.O. 1971, c. F-1	
		79			SEE R.O. 1971, c. G-3	
		80			SEE R.O. 1971, c. I-3	
		81			SEE R.O. 1971, c. J-1	
		82			SEE R.O. 1971, c. M-5	
		83			SEE R.O. 1971, c. P-1	
		84			SEE R.O. 1971, c. S-5	
		85			AM. 1982, c. 30, s. 46; SEE R.O. 1971, c. W-2	
		86			RP. 1984, c. 45, s. 31	
		87		71	AM. 1982, c. 30, s. 47	
		88			N/C	
		21	1		AM. 1981(1st), c. 10, s. 8; SEE R.O. 1971, c. R-1	
			2-6		SEE R.O. 1971, c. R-1	
			7		N/C	
		22	1		SEE 1974(2nd), c. 14	
		23	1-4		SEE R.O. 1971, c. S-7	
		24			N/C	
		25	1-3		SEE 1978(1st), c. 2	
		1			N/C N/R	
		2	1		SEE 1973, c. 4	
			2		N/C	
		3	1-3		SEE R.O. 1971, c. H-1	
			4		N/C	
		4	1-2		SEE 1976(1st), c. 1	
		5			N/C	
		6			RP. 1984, c. 2, s. 187	
		7	1-8	94	1-8	
			SCHEDULE 1		9	
			SCHEDULE 2			
		8	1-2			N/C SEE 1972, c. 8
			3			N/C
		9				N/C
		10	1			SEE 1975(1st), c. 2
			2			SEE R.O. 1971, c. C-16
			3			SEE 1980(2nd), c. 6
			4			SEE R.O. 1971, c. E-6
			5			SEE R.O. 1971, c. M-3
		6			SEE 1980(1st), c. 20, s. 28	
		7			SEE 1980(2nd), c. 17	
		8			SEE 1980(2nd), c. 21	
	11	1			N/C	
		2	120	1	AM. 1984, c. 24, s. 2	
		3-4		2-3	AM. 1982, c. 27, s. 3	
		5		4	AM. 1984, c. 24, s. 3	
		6		5	AM. 1982, c. 27, s. 3	
		6.1		6	EN. 1984, c. 24, s. 4	
		7		7	AM. 1982, c. 27, s. 3; AM. 1984, c. 24, s. 5	
		8-9		8-9	AM. 1984, c. 24, s. 5	
		10		10	AM. 1982, c. 27, s. 3; AM. 1984, c. 24, s. 5	
		11			RP. 1984, c. 24, s. 6	
		12		11	AM. 1984, c. 24, s. 7	

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks	
1981(2nd)		13-14		12-13		
		15		14	AM. 1981(2nd), c. 11, s. 6; AM. 1982, c. 27, s. 3; AM. 1984, c. 24, s. 8	
		16		15	AM. 1982, c. 27, s. 3; AM. 1984, c. 24, s. 9	
		17-18		16-17		
		19		18	AM. 1984, c. 24, s. 10	
		20			AM. 1981(2nd), c. 14, s. 1; AM. 1982, c. 27, s. 2; AM. 1984, c. 24, s. 11	
		21			N/C SEE 1975(1st), c. 1; SEE 1972, c. 11	
		22			N/C	
		12			N/C N/R	
		13	1-3		SEE 1978(1st), c. 1	
		14	1		N/C	
			2-6	156	1-5	
			7			N/C
		15				N/C
		16	1			N/C
			2-11	166	1-10	
			12			SEE R.O. 1971, c. T-5
		17				N/C
		18				N/C
		19	1			SEE 1974(2nd), c. 3
			2			N/C
		20	1-5			SEE 1978(1st), c. 2
		1	1-2			SEE 1973, c. 1
		2	1			N/C
			2-21	14	1-20	
			21.1			EN. 1984, c. 45, s. 6; SEE R.O. 1971, c. B-4
			22			N/C
		3	1			SEE R.O. 1971, c. C-20
		4	1			N/C
			2-64			SEE 1977(2nd), c. 3
		5				N/C
		6				N/C
		7	1			SEE 1979(2nd), c. 7
			2			N/C
		8	1			SEE R.O. 1971, c. J-1
			2			N/C
		9				RP. 1983, c. 10, s. 13
		10	1			N/C
			2-5			SEE R.O. 1971, c. L-2
			6			N/C
		11	1			N/C N/R
			2			SEE 1977(2nd), c. 2
			3			SEE 1979(2nd), c. 11
			4			SEE 1977(2nd), c. 4
			5			SEE 1980(2nd), c. 17;
			6			SEE 1981(1st), c. 11
			7			SEE 1978(1st), c. 1
	12				SEE R.O. 1971, c. M-10, c. N-1, c. S-2; SEE R.O. 1958, c. 41	
	13	1			SEE 1980(2nd), c. 17	
		2			N/C	
	14				SEE 1981(1st), c. 11	
	15	1			N/C	
		2-29	177	1-28		
		30			N/C	
		31			N/C	
	16	1			N/C	
		2	178	1		
		3		2		
		4-50		3-49	AM. 1982, c. 34, s. 2	



Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		51		50	AM. 1982, c. 34, s. 3
		52-82		51-81	
		83		82	AM. 1982, c. 34, s. 4
		84-93		83-92	
		94		93	AM. 1982, c. 34, s. 5
		95		94	
		96		95	AM. 1982, c. 34, s. 6
		97-100		96-99	
		101		100	AM. 1982, c. 34, s. 7
		102-103		101-102	
		104		103	AM. 1982, c. 34, s. 8
		105-106		104-105	
		107		106	AM. 1982, c. 34, s. 9; AM. 1984, c. 45, s. 29
		108		107	
		109		108	AM. 1982, c. 34, s. 10
		110-133		109-132	
		134		133	AM. 1982, c. 34, s. 11
		135		134	
		136		135	AM. 1982, c. 34, s. 12
		137-139		136-138	
		139.1		139	EN. 1985, c. 40, s. 2
		140-144		140-144	
		145		145	AM. 1982, c. 34, s. 13
		146-189		146-189	
		190		190	
		191-192			N/C
		193			SEE R.O. 1971, c. F-12, G-1
		194			N/C
		SCHEDULE		SCHEDULE	AM. 1982, c. 15, s. 1
1982	1	1			N/C
		2-3			SEE 1977(2nd), c. 2
	2				N/C
	3				N/C
	4	1			N/C
		2-18			SEE 1971, c. I-3
	5				N/C
	6	1			N/C
		2-6			SEE 1978(1st), c. 1
	7	1			N/C
		2-10	159	1-9	
		11			N/C
	8	1			N/C
		2-9			SEE R.O. 1971, c. T-4
	9	1			N/C
		2-9			SEE 1978(1st), c. 2
	10				N/C N/R
	11				N/C
	12				N/C
	13	1			N/C
		2-3			SEE 1980(2nd), c. 17
	14	1			N/C
		2-14			SEE 1975(2nd), c. 3
		15			N/C
	15	1			SEE 1981(2nd), c. 16
	16				N/C NOT ASSENTED TO
	17	1			N/C
		2-11	4	1-10	
	18				RP. 1983, c. 13
	19				N/C
	20				N/C
	21	1			N/C
		2-6			SEE 1977(1st), c. 1
		7			N/C
	22				N/C N/R
	23	1			N/C
		2-21			SEE R.O. 1971, c. L-2
		22			N/C

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1983	24	1			N/C
		2			SEE 1978(1st), c. 2
		3			N/C
	25	1			N/C
		2-14			SEE R.O. 1971, c. L-8
		15			N/C
		16			N/C
	26	1			N/C
		2-21			SEE 1977(2nd), c. 4
		22			N/C
	27	1			N/C
		2-3			SEE 1981(1st), c. 11
	28	1			N/C
		2-8			SEE R.O. 1971, c. O-2
	29	1			N/C
		2-16			SEE R.O. 1971, c. P-1
		17			N/C
	30	1			N/C
		2-47			SEE 1980(2nd), c. 20
		48			RP. 1983, c. 13, s. 284
		49			N/C
	31				N/C
	32				N/C
	33				N/C
	34	1			N/C
		2-13			SEE 1981(2nd), c. 16
	35	1			N/C
		2-41			SEE 1973, c. 6
		43			N/C
		1			N/C N/R
		2			N/C N/R
		3			N/C
		4	1		N/C
			2-9		SEE 1979(2nd), c. 7
	5				N/C
	6				N/C
	7				N/C
	8	1			N/C
		2			SEE 1974(2nd), c. 14
	9				N/C
	10	1			N/C
		2-11			SEE R.O. 1971, c. M-1
		12			N/C
		13			SEE 1979(2nd), c. 8
		14			SEE R.O. 1971, c. M-1
		15			N/C
	11				N/C
12	1		1	1-12	
	2-13				
	14			N/C	
13	1		15	1-3	
	2-4			4-6	
	4.1-4.3			7-8	
	5-6			9	
	7			10-11	
	8-9			12	
	10			13	
	11			14	
	12			15	
	12.1			17-40	
	13			41	
	14-37			42-74	
	37.1			75	
	38-70			76-103	
	70.1			104	
	71-98				
	98.1				

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		99-114		105-120	
		114.1		121	EN. 1984, c. 5, s. 107
		115-117		122-124	
		118		125	AM. 1986, c. 12, s. 2
		119-139		126-146	
		139.1		147	
		140		148	AM. 1984, c. 5, s. 107
		141-170		149-178	
		171		179	AM. 1985, c. 8, s. 6
		172-178		180-186	
		179		187	AM. 1985, c. 8, s. 7
		180		188	
		180.1		189	
		181		190	AM. 1985, c. 8, s. 8
		182-200		191-209	
		201		210	AM. 1985, c. 8, s. 9
		202-238		211-247	
		239		248	AM. 1985, c. 8, s. 10
		240-246		249-255	
		247-247.1		256-257	AM. 1986, c. 12, s. 2
		248-253		258-263	
		253.1		264	
		254		265	AM. 1985, c. 8, s. 11
		255-268		266-279	266(4) & 275(9) N/C
		269		280	AM. 1985, c. 8, s. 12
		270-271		281-282	
		272		283	AM. 1985, c. 8, s. 13
		273-274		284-285	
		275		286	AM. 1986, c. 12, s. 2
		275.1-275.3		287-289	
		276		290	AM. 1985, c. 8, s. 14
		277-283		291-297	
		284(1)-(4)			SEE R.O. 1971, c. C-10
		(5)-(6)			SEE R.O. 1971, c. C-16
		(7)-(10)			SEE 1979(2nd), c. 12
		(11)			SEE 1980(2nd), c. 17
		(12)-(13)			SEE R.O. 1971, c. S-5
		(14)-(15)			SEE R.O. 1971, c. S-7
		285		298	
		286			N/C
14	1				N/C
	2-15		19	1-14	
	16				N/C
15	1				N/C
	2-5				SEE 1975(1st), c. 2
16	1				N/C
	2		30	3	
	3			2	AM. 1985, c. 29, s. 4
	4-5			3-4	
	6				SEE R.O. 1971, c. T-2
17					N/C N/R
18	1				N/C
	2-53				SEE 1977(2nd), c. 3
	54-56				N/C
19	1				N/C
	2-3		65	1-2	
	4			3	AM. 1985, c. 17, s. 2
	5-44			4-43	
	45				AM. 1984, c. 9, s. 1; AM. 1985, c. 17, s. 3
	46-72			45-71	
	73			72	AM. 1986, c. 12, s. 7
	74-78			73-77	
	79				N/C
	80				SEE 1976(2nd), c. 1; 1976(3rd), c. 4, SEE R.O. 1971, c. I-3
	81				SEE 1973, c.6
	82				

Year & Session	Old Cha	Old Section	New Cha	New Section	Remarks
		83			SEE R.O. 1971, c. H-1
		84			SEE 1979(2nd), c. 3
		85			SEE 1979(2nd), c. 13
		86			SEE 1975(2nd), c. 3
		87			SEE 1972, c. 7
		88			SEE 1975(1st), c. 5
		89			SEE R.O. 1971, c. L-8
		90			SEE R.O. 1971, c. J-1
		91			N/C
	20				N/C
	21				N/C
	22	1			N/C
		2-7			SEE 1978(1st), c. 2
		8			N/C
	23	1			N/C
		2-5			SEE 1978(1st), c. 2
	24	1			N/C
		2-7			SEE 1977(2nd), c. 4
		8			RP. 1985, c. 29, s. 21
		9-14			SEE 1977(2nd), c. 4
		15			N/C
	25	1			N/C
		2-164			SEE 1980(2nd), c. 17
	26	1			N/C
		2-19	138	1-18	3(3) N/C
		20			SEE 1974(2nd), c. 2
		21			N/C
	27	1			N/C
		2-16	150	1-15	
		17		16	AM. 1985, c. 29, s. 16
		18-27		17-26	
		28			SEE 1977(1st), c. 6
		29			N/C
	28	1			N/C
		2-5			SEE 1975(2nd), c. 2
	29	1			N/C
		2			SEE 1973, c. 6
	30				N/C
1984	1	1			N/C
		2-5			SEE 1980(1st), c. 1
	2	1			N/C
		2-97	22	1-95	59 N/C
		98		96	AM. 1984, c. 34, s. 2;
		99-114		97-112	
		115		113	AM. 1984, c. 34, s. 3;
					AM. 1986, c. 12, s. 3
		116		114	AM. 1985, c. 29, s. 2
		117-119		115-117	
		120		118	AM. 1984, c. 34, s. 4
		121-122		119-120	
		123		121	AM. 1984, c. 34, s. 5
		124-127		122-125	
		128		126	AM. 1984, c. 34, s. 6
		129		127	
		129.1		128	EN. 1984, c. 34, s. 7
		130		129	AM. 1984, c. 34, s. 8
		131-132		130-131	
		133		132	AM. 1984, c. 34, s. 9
		134-143		133-142	
		144		143	AM. 1984, c. 34, s. 10
		145-179		144-178	
		180		179	AM. 1985, c. 29, s. 2
		181-184		180-183	
		185(1)			SEE R.O. 1971, c. C-4
		185(2)-(3)			N/C N/R
		186			SEE 1973, c. 2
		187			SEE 1981(1st), c. 6
		188			SEE R.O. 1971, c. 1-4

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		189			SEE R.O. 1971, c. J-1
		190			SEE R.O. 1971, c. L-6
		191			SEE 1979(2nd), c. 11
		191.1			SEE R.O. 1971, c. I-3
		192			RP. 1986, c. 19, s. 42
		193			N/C
	3	1			N/C
		2-19			SEE R.O. 1971, c. D-2
	4				N/C
	5	1			N/C
		2-16	54	1-15	
		17-18		16-17	AM. 1985, c. 15, ss. 2-3
		19-75		18-74	
		76-77		75-76	AM. 1985, c. 15, ss. 4-5
		78		77	
		79		78	AM. 1985, c. 15, s. 6
		80		79	
		81		80	AM. 1985, c. 15, s. 7
		82-96		81-95	
		97		96	AM. 1985, c. 15, s. 8
		98		97	
		99		96	AM. 1985, c. 15, s. 9
		100-106		97-105	
		107			SEE 1983, c. 13
		108			SEE R.O. 1971, c. L-1 & W-1
		109			N/C
	6	1			N/C
		2	55	1	
		3		2	AM. 1985, c. 16, s. 2
		3.1		3	EN. 1985, c. 16, s. 3
		4		4	AM. 1985, c. 16, s. 4
		4.1		5	EN. 1985, c. 16, s. 3
		5-6		6-7	AM. 1985, c. 16, ss. 5-6
	7				N/C
	8				N/C
	9	1			SEE 1983, c. 19
	10				N/C N/R
	11	1			N/C
		2-11			SEE 1975(1st), c. 5
	12				N/C N/R
	13	1			N/C
		2-4			SEE 1979(2nd), c. 7
	14				N/C
	15				N/C
	16	1			N/C
		2-3			SEE R.O. 1971, c. L-2
	17	1			N/C
		2	100	1	AM. 1985, c. 26, s. 2
		3-6		2-5	
		7		6	AM. 1985, c. 26, ss. 3 & 22
		8		7	
		9-11		8-10	AM. 1985, c. 26, ss. 4-6
		12-17		11-6	
		18		17	AM. 1985, c. 26, s. 7
		19-20		18-19	
		21		20	AM. 1985, c. 26, s. 8
		22-25		21-24	
		26		25	AM. 1985, c. 26, s. 9
		27		26	
		28		27	AM. 1985, c. 26, s. 10
		29		28	
		30		29	AM. 1985, c. 26, s. 11
		31-42		30-41	
		43		42	AM. 1985, c. 26, s. 12
		44-45		43-44	
		46-47		45-46	AM. 1985, c. 26, s. 22
		48		47	AM. 1985, c. 26, ss. 14 & 22
		49		48	AM. 1985, c. 26, ss. 14

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		50		49	AM. 1985, c. 26, ss. 14 & 22
		51-54		50-53	
		55		54	AM. 1985, c. 26, s. 15
		56-61		55-60	
		62		61	AM. 1985, c. 26, s. 16
		63-71		62-70	
		72		71	AM. 1985, c. 26, s. 17
		73-76		72-75	
		77		76	AM. 1985, c. 26, s. 18
		78-79		77-78	
		80		79	AM. 1985, c. 26, s. 22
		81-82		80-81	
		83		82	AM. 1985, c. 26, ss. 19 & 22
		84-88		83-87	
		89		88	AM. 1985, c. 26, s. 20
		90-99		89-98	
		100			N/C
		101-112		99-110	
		113			N/C
		114			SEE R.O. 1971, c. L-4
		115			SEE R.O. 1971, c. L-5
		116			N/C
		117			N/C N/R
		118			N/C N/R
		119			N/C N/R
		SCHEDULE			N/C
18		1			N/C
		2	101	1	AM. 1985, c. 29, s. 8
		3-33		2-32	
		34-35			N/C
19		1			N/C
		2-8	103	1-7	
20		1			N/C
		2-8			SEE R.O. 1971, c. L-8
21		1			N/C
		2-7			SEE R.O. 1971, c. M-7
22		1			SEE R.O. 1971, c. C-1
		2			SEE R.O. 1971, c. E-7
		3			SEE R.O. 1971, c. F-9
		4			SEE 1972, c. 9
		5			SEE 1974(2nd), c. 14
23		1			N/C
		2-5			SEE 1977(2nd), c. 4
24		1			N/C
		2-10			SEE 1981(1st), c. 11
		11			N/C
25					N/C
26		1			N/C
		2-78	143	1-77	4(2) N/C
				78-106	N/C
		79			SEE R.O. 1971, c. C-10
		80			SEE 1972, c. 4
27		1			N/C
		2-4			N/C
					SEE 1977(1st), c. 5
28					N/C
29		1			N/C
		2			SEE R.O. 1971, c. S-5
30					N/C
31		1			N/C
		2-15			SEE R.O. 1971, c. T-4
32					N/C N/R
33		1			N/C
		2-11	147	1-10	
		SCHEDULE A			SCHEDULE A
		SCHEDULE B			N/C
34		1			N/C
		2-10			SEE 1984, c. 2

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35		1			N/C
		2-4			SEE R.O. 1971, c. C-20
36		1	43	1-8	N/C
		2-9			N/C
		10			SEE R.O. 1971, c. D-2;
		11			SEE 1979(2nd), c. 12
37		1			N/C
		2			SEE 1977(2nd), c. 2
		3			N/C N/R
38		1			N/C
		2-11			SEE 1976(3rd), c. 3
39					N/C N/R
40					N/C
41		1			N/C
		2-11			SEE 1971, c. H-1
42		1			N/C
		2			SEE R.O. 1971, c. H-3
43		1			N/C
		2-6			SEE 1978(1st), c. 2
		7			N/C
44					N/C
45		1			N/C
		2			SEE 1977(2nd), c. 1
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		13			SEE R.O. 1971, c. C-23
		14			SEE 1977(1st), c. 21
		15			SEE R.O. 1971, c. D-1
		16			SEE R.O. 1971, c. D-6
		17			SEE R.O. 1971, c. E-7
		18			SEE R.O. 1971, c. E-8
		19			SEE R.O. 1971, c. F-6
		20			SEE 1972, c. 6
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		30			SEE 1973, c. 6;
		31			SEE R.O. 1971, c. W-4
		32			N/C
		33			N/C
		34			N/C
		35			N/C
		36			N/C
		37			N/C
		38			N/C
		39			N/C
		40			N/C
		41			N/C
46		1	123	1-53	N/C
		2-54			SEE R.O. 1971, c. B-2 & M-9
		55			N/C
		56			N/C

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1985	47	1			N/C
		2-3			SEE 1978(1st), c. 1
	48	1			N/C
		2-5	182	1-4	
		1			N/C
		2			N/C
		3			N/C
		4	1		SEE R.O. 1971, c. L-8
			2-4		N/C
		4	1		SEE 1980(2nd), c. 17
			2		N/C
			3		N/C
		5	1	3	N/C
			2-11		1-10
			12		11
			13-25		12-24
		6	1		N/C
			2-7		SEE R.O. 1971, c. A-1
		7	1		N/C
			2		SEE 1972, c. 13
		8	1		N/C
			2-14		SEE 1983, c. 13
		9	1		N/C
			2		SEE R.O. 1971, c. C-3
			3		SEE R.O. 1971, c. D-7
			4		SEE 1977(2nd), c. 3
			5		SEE R.O. 1971, c. E-5
			6		SEE R.O. 1971, c. E-6
			7		SEE R.O. 1971, c. I-3
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			9		SEE R.O. 1971, c. M-3
			10		SEE R.O. 1971, c. M-5
			11		SEE R.O. 1971, c. M-7
			12		SEE R.O. 1971, c. T-4
			13		SEE R.O. 1971, c. P-8
			14		SEE R.O. 1971, c. S-5
			15		RP. 1986, c. 19, s. 42
		10			N/C N/R
		11	1		N/C
			2		SEE R.O. 1971, c. C-5
		12	1		N/C
			2-12		SEE R.O. 1971, c. C-8
			13		SEE 1980(2nd), c. 17
		13	1	39	N/C
			2-8		1-7
			9		8
			10-19		9-18
		20		19	
		21-29		20-28	
		30		N/C	
	14	1		N/C	
		2		SEE 1977(2nd), c. 3	
		3		N/C	
	15	1		N/C	
		2-9		SEE 1984, c. 5	
	16	1		N/C	
		2-5		SEE 1984, c. 6	
	17	1		N/C	
		2-3		SEE 1983, c. 19	
	18			N/C N/R	
	19	1	66	N/C	
		2-7		1-6	
		7.1		7	
		8		8	
		9		N/C	
	20			N/C N/R	
	21	1		N/C	
		2-7		SEE 1973, c. 4	



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		2-9	75	1-8	
	23	1			N/C
		2			SEE 1976(1st), c. 1
	24	1			N/C
		2-10			SEE 1979(2nd), c. 7; PARTS ARE N/C N/R
	25	1			N/C
		2-3			SEE 1977(1st), c. 1
	26	1			N/C
		2-22			SEE 1984, c. 17
	27				N/C N/R
	28	1			N/C
		2-3			SEE 1979(2nd), c. 11
	29	1			N/C
		2			SEE 1984, c. 2
		3			SEE 1975(1st), c. 2
		4			SEE 1983, c. 16
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	31	1			N/C
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		2-12			SEE R.O. 1971, c. P-1
	33	1	144		N/C
		2		1	N/C
	34	1			N/C
		2-9			SEE 1980(1st), c. 25
	35	1			N/C
		2-3			SEE 1979(2nd), c. 14
	36	1			N/C
		2			SEE R.O. 1971, c. S-1
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	38	1			N/C
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	40	1			N/C
		2			SEE 1981(2nd), c. 16
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		2-22	181	1-21	
		23			N/C
1986	1	1			N/C
		2-3			SEE R.O. 1971, c. A-1
	2	1			SEE R.O. 1971, c. C-1
		2			N/C
	3	1			N/C
		2			SEE R.O. 1971, c. C-18
	4	1-6	70	1-6	

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		7			N/C
		SCHEDULE		SCHEDULE	
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6		1			N/C
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7					N/C
8					N/C
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13					N/C N/R
14		1-3			AM. 1986, c. 12, s. 14;
					N/C N/R
		4			N/C N/R
		5-13			AM. 1986, c. 12, s. 14;
					N/C N/R
15					N/C N/R
16		1-11	160	1-11	
		12			SEE R.O. 1971, c. M-1
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		15			SEE 1980(1st), c. 12
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		17			N/C
17		1			N/C
		2-9			SEE 1975(2nd), c. 3
18					N/C N/R
19		1-40	175	1-40	
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16. Certificate granted where claim undisputed
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14. Appeal to judge
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23. Dental hygienists and dental therapists
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29. Offence and penalty
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12. Ancillary powers
13. Filing of order
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32. Dismissal
33. Suspension
34. Publication of appointees

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35. Tariff of remuneration
36. Yukon Consolidated Revenue Fund
37. Chief electoral officer reviews accounts
38. Accountable advance
39. Returning officer certifies accounts
40. Forfeiture of payment
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43. Revision by returning officer
44. Increase in size
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46. Organization promoting candidates
47. Subscribed by signatures of members
48. Name
49. Candidate endorsed by party
50. Independent candidate

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#### **WRIT OF ELECTION**

51. Issued by the Commissioner
52. Dated
53. Writs at a general election dated the same
54. Published
55. Transmitted to the returning officer
56. Endorsed by the returning officer
57. Procedure for returning officer
58. Materials to the returning officer
59. Withdrawal of writ

## **PROCLAMATION**

60. Issued by the returning officer
61. Place, day and time of nomination and revision
62. Day and time of official addition
63. Transmitted and posted

## **ENUMERATOR**

64. Qualified as an elector
65. Appointment and oath
66. Appointment and oath for nursing or retirement home
67. Appointment and oath for hospital or corrections centre
68. Reference to a pair of enumerators
69. Replacement
70. Duties
71. Offences
72. Payment after revision of lists
73. List of enumerators

## **LISTS OF ELECTORS**

74. Returning officer causes preparation
75. Completed by day 13
76. Prepared in street or surname order
77. For a hospital or corrections centre
78. For a plebiscite or by-election
79. Not of record at a by-election or plebiscite
80. Reproduced by returning officer
81. Copies of lists to candidates by day 17
82. Posted and delivered by day 17
83. Posted and delivered for a nursing or retirement home
84. Posted and delivered for a hospital or corrections centre
85. After the death of a candidate
86. For a registered political party

## **ENUMERATION**

87. By house-to-house visits
88. Electors with same name and address
89. Elector surname
90. Elector advised of the right to vote by proxy
91. Enumerators choose times of visits
92. Two visits to each dwelling place
93. In a nursing or retirement home
94. In a hospital or corrections centre
95. Delivery of lists by day 13
96. Posting of lists
97. Endorsement of lists
98. Copy of list kept by enumerator
99. Enumerator's badge
100. Enumerator's account not certified

## **PROXY VOTING**

101. By reason of absence from the Yukon
102. Proxy application
103. Proxy certificate
104. Withdrawal of proxy certificate
105. Proxy voter entitled to vote
106. Offences

## **CANDIDATES AND NOMINATION**

107. Qualification of a candidate
108. Statement of ineligibility
109. Election of ineligible candidate is void

- 110. Nomination day
- 111. Time for receiving nominations
- 112. Assistant returning officer receives nominations
- 113. Electors nominate a candidate
- 114. Nomination paper
- 115. Returning officer shall not refuse to accept
- 116. Candidate's deposit
- 117. Returning officer's receipt
- 118. Close of nominations
- 119. Correction to nomination paper
- 120. Order of names by drawing of lots
- 121. Grant of poll
- 122. Announcement of candidates and official agents
- 123. Incapacity of official agent
- 124. Materials to candidates
- 125. Notices to candidates
- 126. Vote void for other than officially nominated candidate
- 127. Report of rejected nomination
- 128. Acclamation

#### **DEATH OF A CANDIDATE**

- 129. After the close of nominations
- 130. Notice of new day of nominations
- 131. Report to the chief electoral officer

#### **WITHDRAWAL OF A CANDIDATE**

- 132. Prior to 2 o'clock on day 13
- 133. Ballots cast are void
- 134. After ballot papers printed
- 135. Duties of deputy returning officer
- 136. Only one candidate remains
- 137. Offence to publish false statement

#### **REVISION**

- 138. Times and dates
- 139. Appointment and oath of revising officer
- 140. Purpose
- 141. Public revision hearings
- 142. Representative allowed
- 143. Two declarations only
- 144. Addition of a name
- 145. Deletion of a name
- 146. Correction of a name or address
- 147. Change of residence after enumeration
- 148. Close of revision
- 149. No further changes after certification
- 150. Statement of changes and additions
- 151. Delivery of lists to deputy returning officer
- 152. Official list of electors
- 153. Official list at a plebiscite or by-election
- 154. Offences
- 155. Appeal to returning officer
- 156. For a mail-in poll

#### **BALLOT PAPERS FOR A MAIL-IN POLL**

- 157. In the prescribed form
- 158. Affidavit of printer
- 159. Returning officer's receipt

#### **MAIL-IN POLLING DIVISION**

- 160. For a polling division with 15 or less electors
- 161. Ballot paper forwarded to elector
- 162. Elector's name crossed on list
- 163. Record in poll book
- 164. Voting procedure

- 165. Returning officer receives ballot paper
- 166. Late ballot paper not counted
- 167. Communications disruption

#### **MAIL-IN POLL IN A HOSPITAL OR CORRECTIONS CENTRE**

- 168. Ballot paper forwarded to elector
- 169. Elector not identified
- 170. Polling in the same manner as a mail-in polling division
- 171. At a general election only

#### **POLLING STATIONS**

- 172. Fixed and provided for after the issue of the writ
- 173. In a school or public building
- 174. Convenient access and exit
- 175. Sign to identify polling place

#### **POLLING BOOTHS**

- 176. Arranged for privacy
- 177. Pencil attached
- 178. Instructions for construction

#### **BALLOT BOXES**

- 179. Provided by chief electoral officer
- 180. Of durable material and with a slit
- 181. Provided with a sealing plate
- 182. Deputy returning officer may obtain

#### **BALLOT PAPERS FOR A REGULAR OR ADVANCE POLL**

- 183. In the prescribed form
- 184. Different number on each ballot paper
- 185. Bound or stitched in books
- 186. Affidavit of printer
- 187. Returning officer's receipt

#### **DEPUTY RETURNING OFFICERS**

- 188. Appointment and oath
- 189. Returning officer or assistant returning officer may act with permission
- 190. Enumerator may act
- 191. Relieved of duties
- 192. At an advance poll
- 193. At a nursing or retirement home
- 194. List of deputy returning officers to candidates
- 195. List of deputy returning officers posted
- 196. Materials to deputy returning officer
- 197. List of electors to deputy returning officer
- 198. List of electors for an advance poll
- 199. List of electors delivered by revising officer
- 200. Responsible for security of election supplies

#### **POLL CLERKS**

- 201. Appointment and oath
- 202. Name entered in the poll book
- 203. Enumerator may act
- 204. Replaces deputy returning officer
- 205. Residence exception

#### **INTERPRETERS AND POLL ATTENDANTS**

- 206. Appointment and oath of interpreter
- 207. Purpose of interpreter
- 208. Appointment and oath of poll attendant

- 209. Reason for appointment stated
- 210. Election officer voting

#### **ADVANCE POLLS**

- 211. Days and time
- 212. For an absent or incapacitated elector
- 213. Number of advance polling stations
- 214. Conduct of an advance poll
- 215. Poll clerk's duties at an advance poll
- 216. Poll book entries
- 217. Voting at an advance poll
- 218. Duties at close of poll each day
- 219. Duties at close of last day
- 220. Returning officer processes and transmits lists

#### **POLLING IN A NURSING OR RETIREMENT HOME**

- 221. At a general election or by-election
- 222. Need determined by returning officer
- 223. Time of voting on polling day
- 224. Polling station located in institution
- 225. Conduct of a poll in an institution
- 226. Responsibility for security of election supplies

#### **CANDIDATES' AGENTS**

- 227. Appointment and oath of an agent
- 228. Two agents per candidate at any time
- 229. Dispute determined by deputy returning officer
- 230. Rights and duties of agent
- 231. Candidate may undertake duties
- 232. Deputy returning officer may order to leave
- 233. Non-attendance shall not invalidate any act

#### **POLLING DAY**

- 234. Day of polling shall be a Monday
- 235. Hours of polling
- 236. Official list of electors

#### **OPENING OF THE POLL**

- 237. Printed directions to electors
- 238. Ballot papers initialed
- 239. Ballot box locked
- 240. Persons present at a polling station

#### **MANNER OF VOTING**

- 241. By ballot
- 242. Deputy returning officer instructs each elector
- 243. Elector shall declare name and address
- 244. Poll clerk makes entries in poll book
- 245. No proof of right to vote required
- 246. Elector marks ballot paper
- 247. Deputy returning officer removes counterfoil
- 248. Elector shall vote without delay
- 249. Electors vote if present at close of poll
- 250. Elector shall not vote more than once
- 251. Issue of second ballot paper

#### **OATHS OF ELECTORS**

- 252. Subject to any oath elector votes
- 253. Oath only as provided for
- 254. Offence to misrepresent disqualification criteria
- 255. Refusal to take oath
- 256. Oath not required on receipt of ballot paper
- 257. Oath of qualification
- 258. Oath of identity

- 259. Issue of second ballot paper in same name

#### **PROXY VOTING**

- 260. Proxy voter entitled to vote for elector
- 261. Names of proxy voter and elector on list
- 262. Poll book entries
- 263. Deputy returning officer retains proxy certificate

#### **INCAPACITATED ELECTORS**

- 264. Deputy returning officer marks ballot paper
- 265. Ballot box removed to elector
- 266. Poll clerk and agents accompany
- 267. Elector marks ballot paper unobserved

#### **SECURITY**

- 268. By candidate, election officer, agent or other person
- 269. By elector
- 270. By deputy returning officer
- 271. Offence to contravene

#### **CONDUCT AT POLLING STATIONS**

- 272. Weapons
- 273. Propaganda
- 274. Offence to contravene
- 275. Badges for election officials

#### **COUNTING OF THE BALLOTS**

- 276. Order of procedure
- 277. Rejected ballots
- 278. Counterfoil attached to ballot
- 279. Ballot not initialed
- 280. Objections to ballot
- 281. Counted ballots sealed in envelopes
- 282. Agents may sign seals
- 283. Closing oath
- 284. Statement of poll
- 285. Procedure following count
- 286. For an advance poll
- 287. For a nursing or retirement home.
- 288. For a hospital or corrections centre
- 289. For a mail-in polling division

#### **BALLOT BOX RETURN**

- 290. Returning officer directs method
- 291. Appointment of ballot box messenger
- 292. Oath of ballot box messenger

#### **OFFICIAL ADDITION**

- 293. Returning officer examines seals
- 294. Dates, time and procedure
- 295. Statement of poll missing in ballot box
- 296. Returning officer declares candidate with most ballots
- 297. Application for a recount
- 298. Ballot boxes not received
- 299. Statement of poll unavailable
- 300. Ballots boxes destroyed or lost
- 301. Statement of poll cannot be obtained
- 302. Report to chief electoral officer
- 303. Offence to refuse returning officer's order

## **JUDICIAL RECOUNT**

- 304. Judge appoints a time on application
- 305. Order of recounts
- 306. Returning officer notified
- 307. Candidates notified
- 308. Returning officers summoned
- 309. Candidate entitled to be present
- 310. Procedure
- 311. Power of judge
- 312. Counterfoil attached
- 313. Times
- 314. Ballots under seal during recess
- 315. Judge supervises packaging and sealing
- 316. Recount terminated
- 317. Procedure at conclusion
- 318. Tie determined by drawing of lots
- 319. Costs
- 320. Clerical assistance

## **ELECTION RETURN**

- 321. Date
- 322. Returning officer transmits documents
- 323. Certified copy of return to each candidate
- 324. Premature return
- 325. Incomplete or incorrect return
- 326. Commissioner advised of return
- 327. Offence by returning officer

## **PART 3**

## **ELECTION REQUIREMENTS**

### **EMPLOYEE VOTING**

- 328. Four consecutive hours
- 329. No deduction from pay
- 330. Notice to vote at an advance poll
- 331. Offence by employer
- 332. Government of the Yukon is an employer

### **REPORTS OF THE CHIEF ELECTORAL OFFICER**

- 333. After each election
- 334. Offence by an election officer
- 335. Any matter or amendments
- 336. Tabled in the Legislative Assembly

### **ELECTION DOCUMENTS**

- 337. Retained by chief electoral officer
- 338. Inspected or produced by court order
- 339. Chief electoral officer certifies and transmits
- 340. Required to maintain a prosecution
- 341. Public records

### **CANDIDATE'S ELECTION EXPENSES AND CLAIMS**

- 342. Payment by official agent
- 343. Payments by candidate for personal expenses
- 344. Claim within one month of declaration of result
- 345. Death of claimant
- 346. Death of official agent
- 347. Claim paid with approval
- 348. Late claim approved by judge

## **NOTICES AND ADVERTISING**

- 349. Name and address of sponsor
- 350. Removal of posted material pursuant to this Act
- 351. Removal of posted material for a candidate or political party
- 352. Offence to fail to comply
- 353. Notice of offence posted by election officer
- 354. Notice not prescribed
- 355. Notice posted on public building
- 356. Method of communication
- 357. Premature publication of results

## **OATHS AND PLEDGES**

- 358. Oath administered as provided
- 359. Oath administered without fee
- 360. Pledge void
- 361. Executory contract, promise or undertaking

## **OFFENCES**

- 362. Ballot paper offences
- 363. Ballot box offence
- 364. Voting offences
- 365. False oaths and statements
- 366. Non-resident canvasses for votes
- 367. Posted documents offences
- 368. Free access of a candidate or agent
- 369. Failure to obey order
- 370. Obstruction of election officer
- 371. Omission of an act
- 372. Peace and good order
- 373. Peace officer arrests without warrant
- 374. Inducing or preventing a vote
- 375. Liquor
- 376. Disorderly conduct at a public meeting
- 377. Election officer refuses to comply
- 378. Inquiry by chief electoral officer
- 379. Chief electoral officer's powers
- 380. Fine and imprisonment

## **VALIDITY OF ELECTIONS**

- 381. Candidate's knowledge and consent required
- 382. Controverted Elections Act not limited
- 383. Restrictions on declaring election void
- 384. Disqualification procured by perjury

## **PROCEEDINGS RELATING TO ELECTIONS**

- 385. Evidence of writ
- 386. Evidence of election
- 387. Evidence as to vote
- 388. Intervention in proceedings
- 389. Limitation of action

## **BALLOT BOXES AND SUPPLIES**

- 390. Property of the Crown
- 391. Deposit of ballot boxes

## **MISCELLANEOUS**

- 392. Vacancy in representation
- 393. Regulations
- 394. Forms, badges, seals
- 395. Application of amendments

## **CHAPTER 49**

### **ELECTORAL DISTRICT BOUNDARIES ACT**

**ELECTORAL DISTRICT OF CAMPBELL**

**ELECTORAL DISTRICT OF FARO**

**ELECTORAL DISTRICT OF HOOTALINQUA**

**ELECTORAL DISTRICT OF KLONDIKE**

**ELECTORAL DISTRICT OF KLUANE**

**ELECTORAL DISTRICT OF MAYO**

**ELECTORAL DISTRICT OF OLD CROW**

**ELECTORAL DISTRICT OF TATCHUN**

**ELECTORAL DISTRICT OF WATSON LAKE**

**ELECTORAL DISTRICT OF WHITEHORSE  
NORTH CENTRE**

**ELECTORAL DISTRICT OF WHITEHORSE  
PORTER CREEK EAST**

**ELECTORAL DISTRICT OF WHITEHORSE  
PORTER CREEK WEST**

**ELECTORAL DISTRICT OF WHITEHORSE  
RIVERDALE NORTH**

**ELECTORAL DISTRICT OF WHITEHORSE  
RIVERDALE SOUTH**

**ELECTORAL DISTRICT OF WHITEHORSE  
SOUTH CENTRE**

**ELECTORAL DISTRICT OF WHITEHORSE  
WEST**

## **CHAPTER 50**

### **ELECTRICAL PROTECTION ACT**

1. Interpretation
2. Appointment of inspectors
3. Powers of inspectors on inspections
4. Standards for installations
5. Inspectors powers where installation dangerous
6. Plans to be submitted for approval
7. Permit required for installations and repairs to electrical wiring
8. Notice to be given for inspection
9. Inspector shall permit supply of electricity
10. No electricity without permission
11. Orders and decisions of inspectors
12. Contractor must have valid licence
13. Issuance, maintenance and use of licences
14. Revocation or suspension of licence
15. Defective work
16. Qualified electrician
17. Qualifications for employer's staff and monthly report
18. Public utilities and equipment manufacturers
19. Exceptions

20. Licences non-transferable
21. Proof of licence
22. Failure to produce licence
23. Display of licence
24. Offence and penalty
25. Business licence
26. Regulations

## **CHAPTER 51**

### **ELEVATOR AND FIXED CONVEYANCES ACT**

1. Interpretation
2. Application of Act
3. Inspector
4. Powers of inspector
5. Certificate of appointment of inspector
6. Persons accompanying inspector
7. Waiver of responsibility
8. Liability of inspector
9. Approval of fixed conveyances
10. Direction for remedial action
11. Appeal
12. Notice of accident
13. Investigation of accident
14. Protection of evidence
15. Approval of proposed alterations
16. Posting of certificate or licence
17. Posting of notices
18. Removal or defacing of bulletins prohibited
19. Regulations
20. Commencement of prosecution
21. Offence and penalty

## **CHAPTER 52**

### **EMERGENCY MEDICAL AID ACT**

1. Interpretation
2. Liability for provision of emergency medical aid

## **CHAPTER 53**

### **EMPLOYMENT AGENCIES ACT**

1. Interpretation
2. Exemptions
3. Appointments
4. Registration
5. Application for registration of agency
6. Display of certificates
7. Expiration and renewal of certificate
8. Prohibition
9. Strike or lockout
10. Penalty
11. Regulations

## **CHAPTER 54**

### **EMPLOYMENT STANDARDS ACT**

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#### **INTERPRETATION AND APPLICATION**

1. Interpretation
2. Application of the Act
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