

Chapter 21

STATISTICS ACT

(Assented to December 5, 2006)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

INTERPRETATION AND APPLICATION

Definitions

1. In this Act,

"Director" means the Director of Statistics appointed under subsection 6(1); (*directeur*)

"Information and Privacy Commissioner" means the Information and Privacy Commissioner appointed under the *Access to Information and Protection of Privacy Act*; (*commissaire à l'information et à la protection de la vie privée*)

"Nunavummiut" means the people of Nunavut; (*Nunavummiut*)

"personal information" means personal information as defined by the *Access to Information and Protection of Privacy Act*; (*renseignements personnels*)

"public body" means public body as defined by the *Access to Information and Protection of Privacy Act* and the regulations made under that Act; (*organisme public*)

"record" means record as defined by the *Access to Information and Protection of Privacy Act*; (*document*)

"respondent" means a person or public body from whom a record or reply is sought under this Act; (*répondant*)

"Statistics Canada" means the bureau of statistics referred to in the *Statistics Act* (Canada). (*Statistique Canada*)

Paramountcy

2. (1) If there is an inconsistency or conflict between this Act and the *Access to Information and Protection of Privacy Act* or the regulations made under that Act, this Act prevails to the extent of the inconsistency or conflict.

Paramountcy of other enactment

(2) This Act does not prevail in the event of an inconsistency or conflict with any other enactment that governs the collection, use or disclosure of personal information.

Government bound by Act

3. The Government of Nunavut is bound by this Act.

NUNAVUMMIT KIGLISINIARTIIT

Nunavummit Kiglisiniartiit

4. A bureau of statistics is established for Nunavut, and shall be called the Nunavummit Kiglisiniartiit, or by such other name as may be given by the Commissioner in Executive Council.

Powers

5. (1) The Nunavummit Kiglisiniartiit may plan, promote and develop integrated social and economic statistics relating to Nunavut or the government of Nunavut, and in particular, may

- (a) collect, compile, analyse, abstract and publish statistical information relating to commercial, industrial, financial, social, economic, educational, labour and employment, recreational and other activities or conditions of Nunavummiut and of Inuit in Nunavut;
- (a.1) collect, compile, analyse, abstract and publish statistical information relating to the implementation of the *Nunavut Land Claims Agreement*;
- (b) collaborate with or assist public bodies in the collection, compilation and publication of statistical information, including statistics derived from the activities of those public bodies; and
- (c) promote quality, coherence and the avoidance of duplication in the collection of information by those public bodies.

Authorizing other powers

(2) In addition to the powers conferred on the Nunavummit Kiglisiniartiit by subsection (1), the Commissioner in Executive Council may authorise the Nunavummit Kiglisiniartiit to collect, compile, analyse, abstract and publish such other statistics or statistical information as the Commissioner in Executive Council considers necessary.

Rules, instructions and forms

(3) The Minister may approve the following as required to conduct the work of the Nunavummit Kiglisiniartiit:

- (a) rules, instructions and forms to carry out the internal work and business of the Nunavummit Kiglisiniartiit;
- (b) forms, procedures and sampling methods to be used in collecting, compiling or publishing statistics; and
- (c) forms for conducting a survey, census or request for reply in accordance with this Act.

Director of Statistics

6. (1) The Minister shall appoint a person employed in the public service under the Minister to be the Director of Statistics.

Employees

(2) The staff necessary to conduct the work of the Nunavummit Kiglisiniartiit shall be employed under the *Public Service Act*.

Temporary employees

(3) The Minister may use the services of an employee of the public service in the exercise or performance of a duty, power or function of the Nunavummit Kiglisiniartiit under this Act and, for the purposes of this Act, an employee whose services are so used is deemed to be an employee under subsection (2) for the period that the Minister determines necessary.

Service contracts

(4) The Minister may engage a person under contract to perform services under this Act, and a person so engaged and the employees and agents of that person shall, for the purposes of this Act, be deemed to be engaged under this Act while performing those services.

Oath of secrecy

7. (1) The Director and every person employed or engaged under section 6 shall, before commencing his or her duties, take and subscribe an oath or affirmation in the following form:

I, _____, do solemnly swear (or affirm) that I will faithfully and honestly fulfil my duties on behalf of the Nunavummit Kiglisiniartiit in conformity with the *Statistics Act* and all regulations, rules and instructions under it, and that I will not without due authority disclose or make known any matter or thing that comes to my knowledge in the performance of my work under the *Statistics Act*.

Administration of oath

- (2) The Minister, or a person authorised by the Minister, shall
- (a) administer the oath or affirmation referred to in subsection (1); and
 - (b) ensure that the oath or affirmation is returned and recorded in such manner as the Minister may direct.

Accountability

8. (1) Except as otherwise provided in this Act, the Director is responsible for the management of the Nunavummit Kiglisiniartiit in accordance with this Act and the direction of the Minister.

Report to Minister

(2) The Director shall, within 90 days after the end of each fiscal year, provide the Minister with an annual report stating the activities of the Nunavummit Kiglisiniartiit in the preceding fiscal year and including any other information that the Minister may require.

Tabling in Legislative Assembly

(3) Every report submitted under subsection (2) shall be laid before the Legislative Assembly at the earliest possible time after it is received by the Minister.

AGREEMENTS

Provisions requiring approval

9. An agreement authorized under section 10 or 11 must include conditions satisfactory to the Minister with respect to the following:

- (a) the security and confidentiality of personal information;
- (b) the removal or destruction of individual identifiers at the earliest reasonable time;
- (c) restrictions on the manner in which personal information may be subsequently used or disclosed, including requirements respecting a respondent's consent to subsequent use or disclosure where appropriate;
- (d) the prohibition, where appropriate, of any subsequent use or disclosure of that information in individually identifiable form without the express authorization of the Minister;
- (e) the particulars of ownership, copyright and rights to use information that will be retained, conveyed or exercisable by each party.

Agreements with Statistics Canada

10. (1) Subject to section 9, the Minister may make agreements with Statistics Canada for

- (a) the collection of information jointly with Statistics Canada;
- (b) the collection of information on behalf of Statistics Canada;
- (c) the sharing of replies to specific statistical inquiries, to specific classes of information collected under this Act, or of supplementary information provided by a respondent;
- (d) the sharing of tabulations, analyses or publications based on information and replies referred to in this subsection; and
- (e) the collection or sharing of other information obtained by the Nunavummit Kiglisiniartiit under this Act.

No retroactivity

(2) Except in respect of the information and circumstances described in subsection 16(3), no agreement made under this section applies to a reply made to or information collected by the Nunavummit Kiglisiniartiit before the date that the agreement was made or is to have effect, whichever is later.

Agreements with other parties

11. (1) Subject to section 9, the Minister may make agreements with other parties including a public body, the Government of Canada, the government of a province or territory, a municipality, an agency or organization that represents Inuit, a corporation or any other organisation whether incorporated or not, for

- (a) the collection of information jointly with the specified party or parties;
- (b) the collection of information on behalf of the specified party or parties;
- (c) the sharing of replies to specific statistical inquiries, to specific classes of information collected under this Act, or of supplementary information provided by a respondent; and
- (d) the sharing with the specified party or parties of information collected under this subsection, and for any tabulation, analysis or publication based on that information.

Additional required provisions

(2) An agreement under subsection (1) must provide that

- (a) respondents must be notified when information is being collected jointly on behalf of the Nunavummit Kiglisiniartiit and the other party or parties to the agreement; and
- (b) the agreement does not authorize the sharing of personal information from a respondent who objects to the sharing of personal information between the Nunavummit Kiglisiniartiit and the other party or parties to the agreement.

Objection

(3) If a respondent objects to the sharing of personal information between the Nunavummit Kiglisiniartiit and any other party to an agreement made under subsection (1), the Nunavummit Kiglisiniartiit shall not share information in a form that would identify the respondent.

INFORMATION REQUESTS, USE AND DISCLOSURE

Identification and notice

12. A person who requests information under this Act must first give his or her name and title of office to the respondent and tell the respondent

- (a) the purpose of the survey or inquiry;
- (b) whether personal information collected will be or might be shared pursuant to an agreement under section 10 or 11; and
- (c) if personal information collected from the respondent will be or might be shared pursuant to an agreement under section 11, of the respondent's right to object to the sharing of personal information.

Evidence of authority

13. (1) A document purporting to be signed or made by the Minister, the Commissioner in Executive Council or the Director that refers to an appointment of or to direction issued to a person employed or engaged in the administration of this Act, is evidence

- (a) of the appointment or direction; and
- (b) that the document was signed or made and addressed as it purports to be.

Request for evidence of authority

(2) On request by a respondent, a person who requests information under this Act shall produce a copy of the evidence referred to in subsection (1) for review or retention by the respondent.

Request for government record or information

14. Subject to sections 12 and 13, on receiving an information request under this Act,

- (a) a public body shall reply in the manner, form and time specified in the request;
- (b) a person having the custody or control of any record in any public body shall reply in the manner, form and time specified in the request; and
- (c) a public body or person shall include with their reply a summary of any personal information protections applicable to information included in the reply, including restrictions on the manner in which personal information may be subsequently used or disclosed, or requirements respecting a respondent's consent to subsequent use or disclosure.

No discrimination

15. No person shall, in the performance of his or her duties or exercise of powers under this Act, discriminate between persons to the prejudice of such persons.

Information protection

16. (1) Except as otherwise permitted by this section or for the purposes of a prosecution under this Act,

- (a) no person, other than a person employed or otherwise engaged under this Act and who has taken the oath or affirmation set out in section 7, shall be permitted to examine a reply under this Act that identifies a respondent or other person;
- (b) no person who has taken the oath or affirmation set out in section 7 shall disclose, or knowingly cause to be disclosed by any means, any information obtained under this Act in such a manner that it is possible to relate the particulars obtained from a reply to an identifiable respondent or other person; and

- (c) no person involved in the management or archival storage and use of government records shall examine, disclose, or knowingly cause to be disclosed by any means, any information obtained under this Act in such a manner that it is possible to relate the particulars obtained from a reply to an identifiable respondent or other person.

Exception where agreement

- (2) Despite subsection (1), the Minister may authorize
 - (a) the particulars of information obtained in the course of administering this Act to be disclosed to Statistics Canada pursuant to an agreement under section 10; or
 - (b) the particulars of information collected pursuant to an agreement under section 11 to be disclosed to a party to the agreement.

Other exceptions

- (3) Despite subsection (1), the Director may authorize the disclosure of the following information, subject to any condition specified in respect of the information:
 - (a) information collected by a respondent and later disclosed to the Nunavummit Kiglisiniartiit, subject to
 - (i) the same terms about confidentiality and disclosure to which the information was subject when collected by the respondent, and
 - (ii) such additional terms about confidentiality and disclosure as may be agreed in writing between the Director and the respondent;
 - (b) information relating to a person or a person's business, if the person first consents in writing to the disclosure;
 - (c) information available to the public from another source or under another law;
 - (d) information in the form of an index or list of
 - (i) the names, telephone numbers and locations of individual organisations, establishments, firms or businesses, or
 - (ii) the products produced, manufactured, processed, transported, stored, purchased or sold, or the services provided, by individual organisations, establishments, firms or businesses in the course of business.

Reply not evidence

17. (1) Except for the purposes of a prosecution under this Act, a reply made to the Nunavummit Kiglisiniartiit or the Director pursuant to this Act and any copy of the reply in the possession of the respondent is privileged and shall not be used as evidence in any proceedings.

No compulsion to produce

(2) No person who has taken the oath or affirmation set out in section 7 shall be required to give oral testimony or to produce any reply, document or record with respect to information referred to in subsection (1).

Application

(3) Subsections (1) and (2) apply in respect of information that is prohibited from disclosure under this Act, or that may only be disclosed pursuant to an authorization under subsection 16(2) or (3).

Certifying statistical information

18. A certificate made under this Act and purporting to be signed by the Director is evidence that the Nunavummit Kiglisiniartiit is the source of the information or calculations, and is admissible in evidence as proof, in the absence of evidence to the contrary, of the contents of the certificate.

REVIEW BY INFORMATION AND PRIVACY COMMISSIONER

Filing a review request

19. (1) An individual who is concerned about the possible breach of sections 9 to 13 or section 16, may file a written request for review with the Information and Privacy Commissioner within 30 days after learning of the possible breach.

Information and Privacy Commissioner may initiate

(2) If a possible breach of sections 9 to 13 or section 16 comes to the attention of the Information and Privacy Commissioner other than under subsection (1), the Information and Privacy Commissioner may initiate a review.

Notice

(3) The Information and Privacy Commissioner shall notify a person or agency alleged to have breached sections 9 to 13 or section 16 when a review is initiated.

Review

(4) Except as provided in this section, sections 30 to 32 and sections 34 to 36 of the *Access to Information and Protection of Privacy Act* shall govern reviews carried out under this section.

Burden of proof

(5) In a review under this section, the onus is on the party seeking the disclosure of personal information to establish that the disclosure is authorized by law.

OFFENCES AND PUNISHMENT

Failure to comply

20. Every person having the custody or control of any record in any public body and who fails to comply with a request made under section 14 within the time and in the form required is guilty of an offence and is liable on summary conviction to a fine not exceeding \$5,000.

Offences respecting information

21. Every person is guilty of an offence and is liable on summary conviction to a fine not exceeding \$5,000 who violates paragraph 16(1)(a), (b) or (c) or who, after taking the oath or affirmation set out in section 7,

- (a) wilfully makes or provides a false declaration, statement or reply in his or her performance of duties or exercise of powers under this Act;
- (b) in the pretended performance of duties or exercise of powers under this Act, obtains or seeks to obtain information that the person is not authorized to obtain;
- (c) wilfully discloses to a person not entitled to receive it under this Act, information obtained in the course of his or her employment or engagement under this Act, that might exert an influence on or affect the market value of stocks, bonds or other security, or any product or article; or
- (d) uses information described in paragraph (c), for the purpose of speculating in stocks, bonds or other security, or any product or article.

False representation

22. Every person who falsely represents that he or she is making an inquiry under the authority of this Act, or under the authority of the Minister or Director, is guilty of an offence and is liable on summary conviction to a fine not exceeding \$5,000.

Minister's approval

23. No prosecution shall be commenced under sections 20 to 22 without the consent of the Minister.

REGULATIONS

Regulations

24. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing, for the purposes of this Act, a rule, procedure, instruction or form of general application; and
- (b) respecting any other matter that the Commissioner, on the recommendation of the Minister, considers necessary or advisable to carry out the purposes and provisions of this Act.

TRANSITIONAL

Agreements made before Act in force

25. This Act does not apply to information sharing or licensing agreements made before this Act comes into force.

CONSEQUENTIAL AMENDMENTS

Access to Information and Protection of Privacy Act

26. (1) The *Access to Information and Protection of Privacy Act* is amended by this section.

(2) Section 40 is amended by striking out "or" at the end of paragraph (b), by striking out the period at the end of paragraph (c) and substituting "; or", and by adding the following after paragraph (c):

- (d) the collection of the information for research or statistical purposes is authorized by or under the *Statistics Act*.

(3) Subsection 61(1) is amended by striking out "Act." and by substituting "Act and shall undertake other duties and functions in addition as required by other legislation."