

## Chapter 27

### REPRESENTATIVE FOR CHILDREN AND YOUTH ACT

(Assented to September 17, 2013)

#### Preamble

Affirming Nunavut's commitment to ensuring that the rights and interests of children and youth are recognized and protected and that their views are heard and considered by the Government of Nunavut and by those who provide services to children and youth;

Recognizing that children and youth have the right to learn and develop, to be protected from harm, to receive care and assistance, to participate in decisions affecting them, and to share in and contribute to family, cultural and social life;

Recognizing that Inuit culture and Inuit societal values require a holistic understanding of the best interests of children and youth within healthy families, and acknowledging the importance of Inuit societal values in supporting the resiliency of children, youth and families;

Affirming Nunavut's commitment to the implementation of the United Nations *Convention on the Rights of the Child*, adopted by the General Assembly of the United Nations on November 20, 1989 and ratified by Canada on December 13, 1991; and

Recognizing the need for an independent officer of the Legislative Assembly who, guided by Inuit culture and Inuit societal values, will advocate for the rights and interests of children and youth and assist the Legislative Assembly and the Government of Nunavut in ensuring that the needs of children and youth are met;

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

#### Definitions

**1.** In this Act

“acting Representative” means the person appointed under subsection 10(1) as the acting Representative for Children and Youth; (*représentant intérimaire*)

“child” means a person who is or, in the absence of evidence to the contrary, appears to be under the age of 16 years; (*enfant*)

“child or youth facility” means a foster home, group home or other facility that provides residential, custodial, child day care, education, health, foster care or other services to any child or youth under an Act of Nunavut, the *Criminal Code* (Canada) or the *Youth Criminal Justice Act* (Canada); (*établissement pour enfants ou pour jeunes*)

“critical injury” means an injury that may result in the death of a person or in serious or long-term impairment of the health of a person; (*blessure grave*)

“designated authority” means an agency, board, commission, corporation, office or other body named or described as a designated authority in the Schedule to this Act or in the regulations made under this Act; (*autorité désignée*)

“government department” means a department, branch or office of the government of Nunavut but does not include

- (a) the Office of the Legislative Assembly,
- (b) the office of a member of the Legislative Assembly or of a member of the Executive Council, or
- (c) the office of an independent officer of the Legislative Assembly as defined in the *Legislative Assembly and Executive Council Act*; (*organisme gouvernemental*)

“Representative” means the person appointed under section 2 to perform the duties and exercise the powers of the Representative for Children and Youth under this or any other Act; (*représentant*)

“special Representative” means a person appointed under subsection 11(1) as a special Representative for Children and Youth; (*représentant spécial*)

“youth” means

- (a) a person who has attained the age of 16 years but not the age of 19 years, or
- (b) a person who has attained the age of 19 years but not the age of 22 years if he or she
  - (i) has requested or is receiving services under the *Education Act* and is entitled under subsection 2(2) of that Act to attend school,
  - (ii) has been charged with an offence to which the *Youth Criminal Justice Act* (Canada) or the *Young Offenders Act* applies and there has been no final disposition of the charge,
  - (iii) has been found guilty of an offence to which the *Youth Criminal Justice Act* (Canada) or the *Young Offenders Act* applies and has not completed his or her sentence or disposition,
  - (iv) is a member of a class of persons designated by the regulations made under this Act as being youth for the purposes of this Act, or
  - (v) has a long term physical, mental, intellectual or sensory impairment that, in interaction with environmental and attitudinal barriers, hinders his or her full and effective participation in society on an equal basis with others, or

- (c) a person who has attained the age of 19 years but not the age of 26 years if he or she is party to an agreement with the Director of Child and Family Services under section 6 of the *Child and Family Services Act*. (*jeune*)

### Representative for Children and Youth

#### Appointment of the Representative for Children and Youth

**2.** (1) The Commissioner, on the recommendation of the Legislative Assembly, shall appoint a person to perform the duties and exercise the powers of the Representative under this Act or any other Act.

#### Title

(2) The person appointed under subsection (1) shall be called the *Nutaqqanut Makkuttunullu Kiggaqtuiji* or by such other title as may be given by the Commissioner on the recommendation of the Legislative Assembly.

#### References in English and French

(3) The *Nutaqqanut Makkuttunullu Kiggaqtuiji* may be referred to in English as the Representative for Children and Youth and in French as the *représentant de l'enfance et de la jeunesse* or by such other names as may be given by the Commissioner on the recommendation of the Legislative Assembly.

#### Change in title

(4) The Representative may recommend to the Legislative Assembly that his or her title be changed and make recommendations on what that title should be in all official languages.

### Powers and Duties: General

#### Duties

- 3.** The Representative has the following duties:
- (a) to ensure that the rights and interests of children and youth, individually and collectively, are protected and advanced and that their views are heard and considered in matters affecting them by government departments and designated authorities;
  - (b) to ensure that children and youth have access to the services of government departments and designated authorities and that their concerns related to those services receive appropriate attention;
  - (c) to facilitate communication and understanding between children and youth and their families and those who provide them with services;
  - (d) to inform the public respecting the rights and interests of children and youth and the role of the Representative;
  - (e) to provide advice and recommendations to government departments and designated authorities about the effectiveness,

- responsiveness and relevance of legislation and policies related to children and youth;
- (f) to provide advice and recommendations to government departments and designated authorities about the availability, effectiveness, responsiveness and relevance of programs and services related to children and youth; and
  - (g) to perform such other duties as are set out in this or any other Act.

#### Powers

**4.** (1) In addition to any other powers under this or any other Act, the Representative for the purpose of performing his or her duties may

- (a) receive and review any matter in relation to the services of any government department or designated authority as the matter relates to any child or youth or to any group of children or youth that comes to the Representative's attention regardless of the source and advise, assist and advocate for the child, youth or group;
- (b) review any matter related to the death or critical injury of any child or youth;
- (c) mediate or use other collaborative processes in a manner consistent with Inuit culture and Inuit societal values to assist in resolving any dispute in relation to the services of any government department or designated authority as the dispute relates to any child or youth or group of children or youth;
- (d) engage in public outreach and education respecting matters affecting children and youth and the role of the Representative and raising awareness and understanding of the United Nations *Convention on the Rights of the Child*;
- (e) conduct systemic reviews of legislation, programs, policies and services of government departments or designated authorities as the legislation, programs, services and policies relate to children and youth;
- (f) monitor the application, use and incorporation of Inuit culture and Inuit societal values in legislation, programs, policies and services of government departments or designated authorities as the legislation, programs, services and policies relate to children and youth;
- (g) undertake research related to the advancement of the rights and interests of children and youth; and
- (h) determine procedures related to the performance of the Representative's duties and the exercise of the Representative's powers under this Act.

Limitation: not to act as legal counsel

- (2) The Representative may not act as legal counsel to any person.

Principles to be applied

**5.** (1) The Representative in performing duties and exercising powers under this Act shall apply the following principles:

- (a) decisions and actions concerning children and youth must be made in accordance with the best interests of children and youth;
- (b) culture and traditions play a vital role in strengthening the resiliency of children, youth and families;
- (c) Inuit culture must be respected and supported in respect of decisions and actions concerning Inuit children and youth;
- (d) families are the primary source of care and guidance for children and youth;
- (e) relationships between children and youth and their families must be respected and, wherever possible, supported and strengthened;
- (f) efforts must be made, wherever possible, to involve and obtain the support of families in decisions and actions concerning children and youth; and
- (g) concerns respecting children and youth must be resolved through processes that demonstrate cooperation and respect.

Inuit societal values

(2) The Representative in performing duties and exercising powers under this Act shall apply Inuit societal values.

Selection, Term of Office and Resignation

Criteria for selection

**6.** (1) Before recommending the appointment of a person as the Representative, the Legislative Assembly shall consider the skills, qualifications and experience of the person, including his or her

- (a) understanding of Inuit societal values, culture, language, traditions, beliefs and history;
- (b) experience in areas such as child and youth development, welfare, education, justice and health services; and
- (c) understanding of and willingness to respond to the needs of children and youth in Nunavut.

Additional criteria

(2) The Management and Services Board may establish additional qualifications or prerequisites to be considered when appointing the Representative.

Term of office

**7.** (1) Subject to section 9, the Representative holds office for a term of five years and may be reappointed for one further term of five years.

Continuation after expiry

(2) The Representative continues to hold office after the expiry of his or her term until reappointed or until a successor is appointed.

Not in public service

**8.** (1) The Representative is not a member of the public service.

Superannuation

(2) Despite subsection (1), the Representative is deemed to be a member of the public service for the purposes of superannuation.

Resignation

**9.** (1) The Representative, an acting Representative or a special Representative may resign at any time by notifying the Speaker in writing or, if the Speaker is absent or unable to act or the office of the Speaker is vacant, by so notifying the Clerk of the Legislative Assembly.

Removal for cause or incapacity

(2) The Commissioner, on the recommendation of the Legislative Assembly, may, for cause or incapacity, suspend or remove the Representative, an acting Representative or a special Representative from office.

Suspension

(3) If the Legislative Assembly is not sitting, the Commissioner, on the recommendation of the Management and Services Board, may suspend the Representative, an acting Representative or a special Representative for cause or incapacity.

Acting and Special Representatives

Acting Representative

**10.** (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint an acting Representative for Children and Youth to perform the duties and exercise the powers of the Representative if

- (a) the Representative is temporarily unable to act because of illness or for another reason;
- (b) the office of the Representative becomes vacant when the Legislative Assembly is not sitting;
- (c) the Representative is suspended when the Legislative Assembly is not sitting; or
- (d) the Representative is removed or suspended, or the office of the Representative becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under subsection 2(1) before the end of the sitting.

Term of office

(2) Subject to subsection (3) and section 9, an acting Representative holds office until the earliest of the following:

- (a) the day the Representative returns to office after a temporary absence;
- (b) the day the suspension of the Representative ends;
- (c) the day a new Representative is appointed under subsection 2(1);
- (d) the second anniversary day of his or her appointment; and
- (e) the day the term of office of the Representative in whose place he or she is acting expires.

#### Appointment of new Representative

(3) Despite any other provision of this Act, if the office of the Representative becomes vacant, the Legislative Assembly shall, within six months of the day that the vacancy occurs, make a recommendation to the Commissioner to appoint a new Representative under subsection 2(1).

#### Special Representative

**11.** (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint a special Representative for Children and Youth to act in the place of the Representative in respect of a particular matter if

- (a) the Representative advises the Management and Services Board that he or she should not act in respect of that matter due to a conflict of interest or other reasonable cause; or
- (b) the Legislative Assembly directs that a special Representative should be appointed.

#### Term of office

(2) Subject to section 9, a special Representative holds office until the conclusion of the matter in respect of which he or she has been appointed.

#### Application of certain provisions to special Representative for Children and Youth

(3) Sections 3 to 5, 14 to 18 and 23 to 34, subsections 35(2) to (8) and sections 36 to 39 and the regulations made under this Act apply to a special Representative in the same manner and to the same extent as they apply to the Representative.

### Oath of Office

#### Oath

**12.** Before undertaking the duties of office, the Representative, an acting Representative or a special Representative shall take an oath, before either the Speaker or Clerk, to perform faithfully and impartially the duties of the office and not to disclose any confidential information or advice except in accordance with this Act.

## Staffing and Other Assistance

### Staff

**13.** (1) Despite the *Public Service Act*, the Representative may hire, following a competition, such staff as are necessary for the proper conduct of his or her duties.

### Exception

(2) Despite subsection (1), the Representative may hire staff without a competition, if, in the opinion of the Representative, it is necessary to do so.

### *Public Service Act*

(3) Staff hired under this section are members of the public service as defined in the *Public Service Act*.

### Status of Representative

(4) For all purposes related to this section, the Representative ranks as and has all the powers of a deputy head under the *Public Service Act*.

### Engaging assistance

**14.** The Representative may engage or retain the services of such counsel, experts and other persons as he or she considers necessary to the performance of his or her duties and the exercise of his or her powers under this Act.

### Elders

**15.** The Representative may consult with or engage such Elders for assistance with dispute resolution or for purposes related to Inuit culture or Inuit societal values in the performance of his or her duties and the exercise of his or her powers under this Act as he or she considers appropriate.

## Delegation of Powers and Duties

### Delegation

**16.** (1) The Representative, if satisfied that it is appropriate to do so, may delegate to any person any of his or her duties and powers under this Act except

- (a) the power to make a report under this Act; and
- (b) the power to delegate set out in this section.

### Delegation in writing

(2) A delegation under subsection (1) must be in writing and may contain any conditions or restrictions the Representative considers appropriate.

### Proof of authority

(3) A person purporting to perform a duty or exercise a power of the Representative by virtue of a delegation under subsection (1) shall produce evidence of the delegation when required to do so.



## Refusal to Act

### Right to refuse to act

**17.** (1) The Representative may refuse to review a matter or to continue a review or to otherwise act in respect of a matter if in his or her opinion

- (a) the circumstances do not justify a review, continuation of a review or other action; or
- (b) the matter is frivolous, vexatious or trivial or the request for the review has not been made in good faith.

### Reasons for refusal

(2) If the Representative decides not to review a matter or decides to cease reviewing or otherwise acting on a matter, he or she shall, in writing, inform the person or persons who referred the matter to him or her and other interested persons of the decision and shall provide them with reasons for it.

## Agreements

### General power to enter agreements

**18.** (1) The Representative may enter into written agreements for the purpose of exercising his or her powers and performing his or her duties under this Act.

### Agreements with other representatives for children and youth

(2) Without limiting the generality of subsection (1), the Representative may enter into written agreements with an official in a province or in another territory who holds an office similar in nature to that of the Representative with respect to

- (a) children and youth from Nunavut who are receiving services in the province or other territory from
  - (i) the government of the province or other territory or from any of its departments,
  - (ii) an agency, board, commission, corporation or office of the government of the province or territory or another body of the government of the province or other territory, or
  - (iii) a foster home, group home or other facility that provides residential, custodial, child day care, education, health, foster care or other services to any child or youth under an Act of the province or other territory, the *Criminal Code* (Canada) or the *Youth Criminal Justice Act* (Canada);
- (b) children and youth from the province or other territory who are receiving services in Nunavut from a government department or a designated authority; and
- (c) the sharing of information reasonably required for the administration of this Act or the legislation of the province or other territory.

## Death or Critical Injury of a Child or Youth

### Duty of Director of Child and Family Services to report death or critical injury

**19.** (1) The Director of Child and Family Services appointed under the *Child and Family Services Act* shall report to the Representative the death or critical injury of a child or youth if, at the time of the death or injury or within one year before the death or injury,

- (a) the child or youth was in the temporary or permanent custody of, or was receiving services from, the Director;
- (b) a parent having care of the child or youth was receiving services from the Director; or
- (c) an individual having care of the child or youth was receiving services from the Director.

### Time of report

(2) The Director shall make a report required by subsection (1) as soon as is reasonably possible after learning of the death or injury of the child or youth and of the existence of a circumstance set out in paragraph (1)(a), (b) or (c).

### Duty of coroner to report death

**20.** A coroner shall report the death of a child or youth to the Representative as soon as is reasonably possible after learning of the death if it is reportable under section 8 of the *Coroners Act*.

### Duty of coroner to provide information

**21.** A coroner who conducts an investigation of the death of a child or youth under the *Coroners Act* shall, as soon as is reasonably possible, inform a parent of the child or youth, or a person having care of the child or youth at the time of the death, of the existence and role of the Representative and how the Representative may be contacted.

## Information to be Given to Child or Youth

### Information to be given to child or youth

**22.** (1) Subject to subsections (2) and (3), if a child or youth is admitted to or enrolled or placed in a child or youth facility, the person in charge of the facility, at the time of receiving the child or youth into the facility, shall inform the child or youth of

- (a) the existence and role of the Representative;
- (b) his or her right to communicate with the Representative in private; and
- (c) how to contact the Representative.

### Application of subsection (1)

(2) Subsection (1) applies to a child who has not attained the age of 12 years only if the child is capable of understanding the information required to be given by that subsection.

Information to be given to parent or guardian

(3) If a child has not attained the age of 12 years or if a child or youth is not capable of understanding the information required to be given by subsection (1), the information must be given as soon as is reasonably possible to a parent of the child or youth or to a person having care of the child or youth at the time of the admission, enrolment or placement, as the case may be.

Information must be given in suitable manner

(4) The information required to be given by this section must be given in a manner that is suitable to the person receiving the information.

Duty to forward correspondence unopened

(5) If a child or youth in the care of or receiving services from a child or youth facility writes a letter addressed to the Representative, the person in charge of the facility shall forward the letter immediately, unopened, to the Representative.

Information to be supplied by Representative

(6) The Representative shall give written information to the person in charge of each child or youth facility explaining

- (a) the role of the office of the Representative;
- (b) the right of any child or youth in the care of or receiving services from the facility to bring any matter to the Representative; and
- (c) how a child or youth may contact the Representative.

Other duties of person in charge

(7) The person in charge of a child or youth facility shall

- (a) without delay, provide a child or youth in the care of or receiving services from the facility who wishes to contact the Representative the means to do so privately; and
- (b) post and keep posted in a place in the facility where it can be readily seen by any child or youth using the facility the information given under subsection (6).

Access by Representative

(8) On the request of the Representative or a person acting on behalf or under the direction of the Representative, the person in charge of a child or youth facility shall without delay, provide the Representative with private access to a child or youth in the care of or receiving services from the facility to meet with the child or youth.

Collection of Information and Confidentiality

Collection of information

**23.** The Representative may collect such information as is necessary to carry out his or her duties and to exercise his or her powers.

### Confidentiality

**24.** (1) Except as authorized or required under this Act or as otherwise authorized or required by law, the Representative and every person acting on behalf or under the direction of the Representative shall maintain confidentiality and shall not disclose information received in the performance of his or her duties.

### Duty to inform in case of younger children

(2) The Representative shall, as soon as is reasonably possible, inform a parent of a child who has not attained the age of 12 years or a person having care of a child who has not attained that age that a matter is under review if the information that led to the review came from the child and, in the opinion of the Representative, it is not contrary to the best interests of the child.

### Necessary disclosure

(3) The Representative may disclose, or authorize a person acting on his or her behalf or under his or her direction to disclose information if the Representative considers the disclosure necessary

- (a) to further a review; or
- (b) to establish grounds for conclusions and recommendations made in a report made under this Act.

### Limitations on necessary disclosure

(4) Subject to subsection (5), nothing in this section permits the disclosure of information

- (a) that relates to the granting of an order of adoption, unless the disclosure is authorized under the *Adoption Act*; or
- (b) that could reasonably be expected to reveal the identity of a person who has made a report under section 8 the *Child and Family Services Act* or who has requested the Representative to review a matter under this Act, unless the person consents to the disclosure.

### Exception for safety reasons

(5) The Representative may disclose information if he or she reasonably believes that the disclosure is necessary to eliminate or reduce a significant risk of death or critical injury to any person.

### *Access to Information and Protection of Privacy Act* does not apply

(6) Despite any provision of the *Access to Information and Protection of Privacy Act*, that Act does not apply to the Representative or any person acting on behalf of or under the direction of the Representative or to any records of the office of the Representative.

## Procedural and Evidentiary Matters

### Notice of systemic review

**25.** Before conducting a systemic review of legislation, programs, policies or services of a government department or designated authority, the Representative shall, in writing, inform the deputy minister of the government department or the chief executive officer, however named, or operator of the designated authority of his or her intention to conduct the review.

### Right to information

**26.** (1) The Representative has a right to information that, in the opinion of the Representative, is necessary to enable the Representative to perform his or her duties or exercise his or her powers under this Act.

### Evidence

(2) The Representative may require a person who, in the opinion of the Representative, has information to which the Representative is entitled under subsection (1)

- (a) to provide the information to the Representative within a specified time; and
- (b) to produce to the Representative, within a specified time, any record or object that in his or her opinion is necessary and that may be in the custody or under the control of the person.

### Application of subsection (2)

(3) Subsection (2) applies whether or not

- (a) the person is an officer, employee or member of a government department or designated authority; or
- (b) the record or object is in the custody or under the control of a government department or designated authority.

### Examination under oath

(4) The Representative may summon and examine on oath or affirmation a person who, in the opinion of the Representative, is able to give information to which the Representative is entitled under subsection (1).

### Right to information and limitations

(5) Despite subsection (1), the Representative does not have the right to information that might involve disclosure of the deliberations or proceedings of the Executive Council or any of its committees related to matters of a secret or confidential nature, the disclosure of which would be injurious to the public interest.

### Solicitor client privilege protected

(6) This section applies despite any other Act or a claim of privilege, except a claim based on a solicitor-client relationship.

#### Disclosure required

(7) A person who has custody or control of information to which the Representative is entitled under subsection (1) shall disclose the information to the Representative.

#### Right of entry

**27.** (1) For the purposes of this Act, the Representative or a person acting on behalf or under the direction of the Representative may, in connection with a review, enter at any reasonable time any premises occupied by a government department or a designated authority or used as a child or youth facility.

#### Entry to dwellings

(2) Despite subsection (1), the Representative or a person acting on behalf or under the direction of the Representative shall not, without the consent of the occupier, exercise a power to enter a place that is being used as a private dwelling, except under the authority of a warrant issued under subsection (3).

#### Warrants

(3) If a justice of the peace is satisfied by evidence upon oath or affirmation that there is reasonable grounds to believe it is necessary to enter a place that is being used as a private dwelling for the purposes of a review under this Act, he or she may issue a warrant authorizing the entry by a person named in the warrant.

#### Notice of entry

(4) Upon entering any premises under this section, the Representative or person acting on behalf or under the direction of the Representative shall notify, as may be the case,

- (a) the deputy minister of the government department that occupies the premises,
- (b) the chief executive officer, however named, or the operator of the designated authority that occupies the premises; or
- (c) the person in charge of the child or youth facility.

#### Application of certain rules

**28.** (1) Subject to subsections 26(5) and (6), a rule of law that authorizes or requires the withholding of a record or object, or the refusal to answer a question, on the ground that the disclosure or answering would be injurious to the public interest, does not apply in respect of a review by the Representative.

#### Same

(2) Despite any provision of the *Access to Information and Protection of Privacy Act*, a provision of that Act or the regulations made under that Act or any other Act requiring a person to maintain secrecy in relation to, or not to disclose information related to, a matter does not apply in respect of a review by the Representative, and a person required by the Representative to provide information or to produce a record or object or summoned by the Representative to give evidence, may not refuse to provide the

information, produce the record or object or refuse to answer questions on the ground of that provision.

#### Defence for certain offences

**29.** A person is not guilty of an offence under another Act by reason of his or her compliance with a request or requirement of the Representative to provide information or produce a record or object or by reason of answering a question in a review conducted by the Representative.

#### Admissibility of evidence

**30.** Except on the trial of a person for perjury, a statement made or answer or evidence given by that or another person in the course of a review by the Representative is not admissible in evidence against the person in a court or at an inquiry or in another proceeding.

#### Representative not compellable witness

**31.** The Representative and any person acting on behalf or under the direction of the Representative is not a compellable witness in respect of any information or evidence received in the performance of duties or exercise of powers under this Act.

### Restriction on Jurisdiction

#### Restriction on jurisdiction

**32.** (1) Nothing in this Act authorizes the Representative to review

- (a) a decision, recommendation, act, order or omission of the Commissioner, the Legislative Assembly or any of its committees, or the Executive Council or any of its committees;
- (b) an order, decision or omission of a court or of a judge or justice of the peace made or given in any action or other proceeding;
- (c) a decision, recommendation, act or omission of the Integrity Commissioner, the Information and Privacy Commissioner or the Languages Commissioner; or
- (d) an order, decision, recommendation, act or omission of the Human Rights Tribunal.

#### Limitation

(2) Subsection (1) does not prevent the review of legislation or the review of the implementation of legislation as part of a systemic review by the Representative.

### Reports

#### Mandatory reporting of reviews

**33.** (1) As soon as is reasonably possible after completing a review, the Representative shall report on the results of the review to

- (a) the concerned government department or designated authority;

- (b) the person or persons, if any, whose actions or omissions are a subject of the review; and
- (c) the person or persons, if any, who provided the information that led to the review.

#### Additional requirement

(2) A report under paragraph (1)(a) shall include a description of the application, use or incorporation of Inuit culture and Inuit societal values in relation to the conduct of the review.

#### Optional reporting of reviews

(3) As soon as is reasonably possible after completing a review, the Representative shall report on the results of the review to

- (a) a parent of the child or youth in respect of whom the review was conducted or a person having care of the child or youth; and
- (b) the child or youth in respect of whom the review was conducted.

#### Restriction

(4) Subsection (3) does not apply if, in the opinion of the Representative, it is in the best interests of the child or youth that a report not be made under either or both of paragraphs (3)(a) and (b).

#### Manner of reporting

(5) The Representative may determine the content and form of a report under this section and the manner in which the report will be given.

#### Advance notice

(6) The Representative may provide to the concerned government department or designated authority a copy of any report under subsection (1) before it is released to any other person.

#### Interim reports

(7) Nothing in this section prevents the Representative from making interim reports to a government department, a designated authority or a person described in subsection (1) or (3) if the Representative is of the opinion that it is appropriate to do so.

#### Monitoring of recommendations

**34.** (1) If, after completing a review the Representative makes recommendations to a government department or designated authority, the Representative may request the department or designated authority to notify him or her within a specified time of the steps that it has taken or proposes to take to give effect to the recommendations.

#### Report to Commissioner in Executive Council

(2) If no action is taken within a reasonable time following a request under subsection (1) that, in the opinion of the Representative, is adequate and appropriate the



Representative, in his or her discretion, may report the matter, including a copy of the report containing the recommendations, to the Commissioner in Executive Council.

Comments must be considered

(3) Before taking action under subsection (2), the Representative shall consider the comments made by or on behalf of the government department or designated authority respecting the opinion or recommendations of the Representative.

Comments to be included

(4) A report made under subsection (2) must include the comments made by or on behalf of the government department or designated authority.

Annual report

**35.** (1) The Representative shall, within six months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly an annual report on the conduct of the office and the discharge of the duties of the Representative during the preceding year, including

- (a) a report on the status of children and youth in Nunavut;
- (b) summaries or descriptions of the individual and general child and youth advocacy activities of the Representative and the outcomes of those activities;
- (c) summaries or descriptions of any reviews related to a child or youth or a group of children or youth, or to the death or critical injury of a child or youth, and any advice or recommendations resulting from the reviews;
- (d) summaries or descriptions of any systemic reviews of legislation, policies, programs and services, and any advice or recommendations resulting from the reviews;
- (e) summaries or descriptions of any reports made to the Commissioner in Executive Council under subsection 34(2);
- (f) summaries or descriptions of any reviews conducted by a special Representative;
- (g) a report on the public outreach and education activities of the Representative;
- (h) a description of the application, use or incorporation of Inuit culture and Inuit societal values in the activities of the Representative;
- (i) the appointment and activities of an acting Representative; and
- (j) financial statements for the office of the Representative.

Other reports

(2) In addition to the annual report, the Representative may prepare such reports as he or she considers appropriate on children and youth in Nunavut and the activities of the office of the Representative and submit them to the Speaker.

#### Tabling of reports

(3) The Speaker shall cause the annual report under subsection (1) and reports under subsection (2) to be laid before the Legislative Assembly as soon as is reasonably possible.

#### Reports to be made available

(4) The Representative shall make reports made under this section available to the public at a time and in a form and manner that he or she considers appropriate.

#### No disclosure of name or other identifying information

(5) Subject to subsections (6) and (8), the Representative shall not, in a report under this section

- (a) disclose the name of any child or youth involved in a review, a parent of the child or youth or any individual having care of the child or youth; or
- (b) disclose any information that could reasonably be expected to reveal the identity of any child or youth involved in a review, a parent of the child or youth or any individual having care of the child or youth.

#### Disclosure with consent

(6) The Representative may disclose names or information described in paragraphs (5)(a) and (b) if all of the persons described in paragraphs (5)(a) or (b) who would be affected by the disclosure consent to it.

#### Consent by child or youth

(7) The consent of a child or youth is not valid for the purposes of this section, unless the Representative is of the opinion that

- (a) the child or youth understands the nature and consequences of the disclosure described in paragraph 5(a) or (b); and
- (b) the consent is freely given.

#### Disclosure in public interest

(8) The Representative may disclose information, other than names, even though the information could reasonably be expected to reveal the identity of a child or youth involved in a review, a parent of the child or youth or an individual having care of the child or youth if

- (a) in the opinion of the Representative, the public interest in the disclosure clearly outweighs the privacy interests of any person who would be affected by the disclosure; or
- (b) the information has already been made public, lawfully, by other means.

#### Notice before adverse report

**36.** (1) The Representative shall, before making a report or recommendation under this Act that may adversely affect a person, government department or designated

authority, inform the person, government department or designated authority of the nature of the report or recommendation and give the person, government department or designated authority the opportunity to make representations in respect of it.

No findings of civil or criminal liability

(2) The Representative shall not, in a report under this Act, make any finding of civil or criminal liability.

Comments on Inuit culture, etc.

(3) The Representative may, in a report under this Act, include comments on the application, use or incorporation of Inuit culture and Inuit societal values in any legislation, programs, policies and services of any government department or designated authority that are related to children and youth and that are relevant to the matters being reported on.

#### Access to Public Reports and Other Documents

Access to public documents

**37.** (1) Reports of the Representative referred to in section 35 that have been made available to the public under subsection 35(4) are public documents and the Representative shall

- (a) make them available to the public without charge on a website established and maintained by the Representative;
- (b) make them available for inspection without charge at the office of the Representative on the request of any person during normal business hours; and
- (c) provide a copy of any such report to a person on the person's request.

Request to access other documents

(2) Any person may request that the Representative provide access to a document kept by the Representative that is not a public document.

Granting Access

(3) The Representative shall provide access for the person requesting a document referred to in subsection (2) to inspect the document, or provide a copy of the document to the person, unless the Representative considers that

- (a) the request is frivolous or vexatious; or
- (b) the requested document contains information that should not or must not be disclosed under this or any other Act or for the same reasons as are applicable to records of a public body under the *Access to Information and Protection of Privacy Act*.

## Immunity from Proceedings

### Immunity from proceedings

**38.** (1) No legal action or proceeding may be brought against the Representative or a person acting on behalf or under the direction of the Representative for anything, in good faith, done, omitted, caused, reported or said in the course of the exercise or purported exercise of a power or the performance or purported performance of a duty of the Representative.

### Protection respecting libel or slander

- (2) For the purposes of an Act or law respecting libel or slander,
- (a) anything said, all information supplied and all records and objects produced in the course of a review, mediation or other proceeding before the Representative are privileged to the same extent as if it were a proceeding in court; and
  - (b) a report made by the Representative and a fair and accurate account of the report in news media, a periodical publication or broadcast are privileged to the same extent as if the report of the Representative were the order of a court.

## Offences and Penalties

### Offences

- 39.** (1) No person shall
- (a) discharge, suspend, expel, intimidate, coerce, evict, impose a pecuniary or other penalty on or otherwise discriminate against a person because that person reports a matter to the Representative, requests a review, gives evidence, or assists in a review or in reporting a matter to the Representative;
  - (b) obstruct, hinder or resist the Representative in the performance of his or her duties or exercise of his or her powers under this Act;
  - (c) refuse to comply with a lawful requirement of the Representative or another person under this Act; or
  - (d) make a false statement to or mislead or attempt to mislead the Representative or another person in the performance of his or her duties or exercise of his or her powers under this Act.

### Penalties

- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding
- (a) \$10,000 in the case of an individual; and
  - (b) \$25,000 in the case of a body corporate or other body with legal capacity.

## Review of Act and Its Operation

Review within five years

**40.** (1) Within five years of the day this Act comes into force and every seven years thereafter, the Legislative Assembly or one of its committees shall review the provisions and operation of this Act, and such other related legislation, policies, guidelines, plans or directives as the Legislative Assembly or the committee may direct.

Scope of review

(2) The review must include an examination of the administration and implementation of this Act and the effectiveness of its provisions and may include recommendations for changes to this Act.

## Regulations

Regulations

**41.** The Speaker, on the recommendation of the Management and Services Board, may make regulations to give effect to the purposes of this Act and without limiting the generality of the foregoing may make regulations

- (a) naming or describing designated authorities to which this Act applies; and
- (b) designating classes of persons as youth as provided in subparagraph (b)(iv) of the definition “youth” in section 1.

## Consequential Amendments

### *Legislative Assembly and Executive Council Act*

**42.** (1) *The Legislative Assembly and Executive Council Act is amended by this section.*

(2) **Subsection 1(2) is amended by adding the following after paragraph (b):**

- (b.1) *the Representative for Children and Youth appointed under the Representative for Children and Youth Act;*

### *Public Service Act*

**43.** (1) *The Public Service Act is amended by this section.*

(2) **Schedule A is amended by:**

- (a) **striking out the period at the end of paragraph (f) and substituting a semicolon; and**
- (b) **adding the following after paragraph (f):**

- (f.1) the staff referred to in section 13 of the *Representative for Children and Youth Act*.

**(3) The French version of Schedule A is amended by striking out** “Les organismes qui suivent font partie de la fonction publique :” **and substituting** “Font partie de la fonction publique :”.

## Commencement

### Coming into force

**44. This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner on the recommendation of the Management and Services Board.**

## Schedule

### Designated Authorities

(Section 1, definition “designated authority”)

1. The following are designated authorities for the purposes of the Act:
  - (a) The Apprenticeship, Trade and Occupations Certification Board established under the *Apprenticeship, Trade and Occupations Certification Act*;
  - (b) The Labour Standards Board established under the *Labour Standards Act*;
  - (c) The Legal Services Board of Nunavut established under the *Legal Services Act*;
  - (d) The Nunavut Arctic College continued by the *Nunavut Arctic College Act*;
  - (e) The Nunavut Housing Corporation continued by the *Nunavut Housing Corporation Act* and housing authorities and housing associations to which that Act applies;
  - (f) The Victims Assistance Committee established under the *Victims of Crime Act*;
  - (g) Operators of child day care facilities licensed under the *Child Day Care Act*;
  - (h) District education authorities continued under or established by the *Education Act*;
  - (i) Governing bodies of schools established under section 197 of the *Education Act*.