

Chapter 11

NUNAVUT OUTFITTER LIABILITY PROTECTION FUND ACT

(Assented to June 4, 2008)

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,

"fiscal year" means fiscal year as defined in the *Financial Administration Act*; (*exercice*)

"fund" means the Nunavut Outfitter Liability Protection Fund established under section 9; (*Fonds*)

"Minister" means the Minister of Finance; (*ministre*)

"outfitter" means a guide, outfitter or tourist establishment eligible to be qualified for a permit or licence under the *Travel and Tourism Act*; (*pourvoyeur*)

"outfitter assistance" means a limited comprehensive general liability claim indemnity provided by the Minister to an outfitter under section 3 of this Act. (*aide aux pourvoyeurs*)

Government bound by Act

2. This Act binds the Government of Nunavut.

OUTFITTER ASSISTANCE

Outfitter assistance

3. The Minister may provide limited comprehensive general liability claim indemnities to outfitters in accordance with this Act.

Application process

4. (1) An outfitter that desires to obtain outfitter assistance shall apply to the Minister in the form approved by the Minister.

Eligibility

(2) The Minister shall determine the eligibility of applicants for outfitter assistance in accordance with policies established by the Minister.

Acceptance and refusal

(3) The Minister may accept or refuse any application for outfitter assistance in accordance with policies established by the Minister.

Contract for outfitter assistance

(4) On acceptance of an application by the Minister under subsection (3), the Minister may enter into a contract for outfitter assistance with the outfitter on such terms as the Minister may determine in accordance with this Act.

Fees

(5) The Minister may require an outfitter to pay a premium, charge or levy under a contract for outfitter assistance.

Variable fees

(6) The Minister may set variable premiums, charges, levies, discounts or surcharges that the Minister considers sufficient to maintain a reasonable reserve in the fund, having regard to subsection 9(5).

Underwriting criteria

(7) For the purposes of this section, the Minister may consider any underwriting criteria generally recognized in the insurance industry which may include, but is not limited to

- (a) the residence of an outfitter in Nunavut;
- (b) the qualifications and experience of an outfitter; and
- (c) the claims history of an outfitter.

Claims

5. (1) The Minister may pay or deny claims resulting from contracts for outfitter assistance.

Limit of outfitter assistance

(2) Every contract for outfitter assistance is subject to the following limits:

- (a) no payment under a contract for outfitter assistance shall exceed \$1,000,000 for the occurrence of any one event giving rise to liability;
- (b) no outfitter shall receive aggregate payments exceeding \$1,000,000 under a contract for outfitter assistance for a coverage year;
- (c) no payment under any contracts for outfitter assistance shall be made that would cause the aggregate payments under this Act to exceed \$2,000,000 for any year of occurrence.

Definitions

(3) In this section,

"coverage year" means the year commencing with the effective date of a contract for outfitter assistance and ending on the first anniversary of that date; (*année de couverture*)

"year of occurrence" means the year corresponding with a fiscal year in which an event giving rise to a claim under this Act occurs. (*année d'occurrence*)

Excluded indemnities

6. No outfitter has any right of indemnification or any right of action against the fund or the Government of Nunavut in respect of any loss suffered by reason of any dishonesty, fraud, criminal act or gross negligence on the part of the outfitter or agent or employee of the outfitter.

Subrogation

7. Where a payment has been made from the fund, the Government of Nunavut is, to the extent of the payment, subrogated to the rights and remedies to which the outfitter receiving the payment is entitled and those rights and remedies may be enforced or realized in the name of the Government of Nunavut.

Exemptions

8. (1) Contracts for outfitter assistance and payments made under this Act are exempt from sections 66 to 67.3 of the *Financial Administration Act*.

Idem

(2) A contract for outfitter assistance is not a contract of insurance within the meaning of the *Insurance Act* and that Act does not apply to outfitter assistance.

NUNAVUT OUTFITTER LIABILITY PROTECTION FUND

Establishment

9. (1) The Nunavut Outfitter Liability Protection Fund is established as a special account in the Consolidated Revenue Fund.

Purpose

- (2) The assets in the fund must be used only for the following purposes:
- (a) to make payments under contracts for outfitter assistance in accordance with this Act;
 - (b) to make payments for any expense related to:
 - (i) the administration of this Act,
 - (ii) a claim arising under this Act, and
 - (iii) a subrogated claim arising under section 7.

Deemed revolving fund

(3) The fund is deemed to be a revolving fund under the *Financial Administration Act*.

Authorized limit

(4) The authorized limit of the fund is \$10,000,000.

Working capital advance

(5) In any fiscal year where moneys are appropriated by the legislature for the purpose, the Minister may pay a working capital advance to the fund where

- (a) the assets of the fund are less than \$5,000,000; and
- (b) the working capital advance does not cause the authorized limit to be exceeded.

Investments

(6) The Minister shall invest money standing to the credit of the fund in accordance with section 57 of the *Financial Administration Act*.

Interest

(7) Interest on moneys invested under subsection (6) forms part of the fund.

Credits

10. (1) The following must be credited to the fund:

- (a) all moneys advanced by the Minister under subsection 9(5);
- (b) all premiums, charges or levies paid by outfitters to the Government of Nunavut under this Act;
- (c) the proceeds of any subrogated claims payable to the Government of Nunavut under this Act;
- (d) interest on moneys invested under subsection 9(6).

Debits

(2) The following must be debited from the fund:

- (a) indemnification payments made under contracts for outfitter assistance;
- (b) any other expense related to
 - (i) the administration of this Act,
 - (ii) a claim arising under this Act, and
 - (iii) a subrogated claim arising under section 7.

Profit and loss

11. (1) Despite section 60 of the *Financial Administration Act*, where the fund makes a profit or incurs a loss at the end of a fiscal year, the profit shall be credited or the loss shall be charged to the fund.

Authorized limit of fund

(2) The amount of balance in the fund must not exceed the authorized limit at the end of any fiscal year.

Deficit

(3) The fund must not incur a deficit balance.

Where surplus exceeds authorized limit

(4) Where a surplus balance in the fund exceeds the authorized limit at the end of a fiscal year, the excess of the surplus balance must be credited into the Consolidated Revenue Fund.

Assignment of authority

12. (1) The Minister may assign the persons necessary to assist the Minister in the administration of this Act.

Residual authority

(2) The Minister may do any other act or thing that is incidental or conducive to the exercise of the Minister's powers and duties under this Act.

Annual report

13. The Minister shall table a report before the Legislative Assembly at the first sitting of the Legislative Assembly after the end of a fiscal year setting out

- (a) a summary of outfitter assistance provided in the fiscal year;
- (b) a summary of claims, subrogation claims and associated costs for the fiscal year; and
- (c) an income statement, balance sheet and statement of operations for the fund.

Limitation of liability

14. No action or proceeding lies or shall be instituted or continued against the Government of Nunavut, the Minister or any person assisting the Minister based on any cause or action arising from, resulting from or incidental to any term, condition, warranty, contract, promise, inducement, representation or other undertaking that is collateral to or modifies, varies or qualifies or amends in any way a contract for outfitter assistance entered into under this Act.

REGULATIONS

Regulations

15. The Commissioner in Executive Council may make regulations

- (a) respecting application procedures for outfitter assistance;
- (b) respecting the manner and time of paying claims under this Act; and
- (c) respecting any matter necessary to carry out the intent and purpose of this Act.

COMMENCEMENT

Coming into force

16. This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner.