

## Chapter 17

### **INUIT LANGUAGE PROTECTION ACT**

*(Assented to September 18, 2008)*

Honouring as wise guardians, the Inuit Elders and the other Inuit Language speakers and educators who have sustained and developed the Inuit Language from time immemorial, and have imparted the knowledge and appreciation of the Inuit Language, cultural and oral traditions that characterize Inuit as a people, to this day;

Considering the importance of the Inuit Language

- (a) as a cultural inheritance and ongoing expression of Inuit identity both in Nunavut communities and in the wider circumpolar world,
- (b) as the fundamental medium of personal and cultural expression through which Inuit knowledge, values, history, tradition and identity are transmitted,
- (c) to the development of the dynamic and strong individuals, communities and institutions in Nunavut that are required to advance the reconciliation contemplated by the Nunavut Land Claims Agreement,
- (d) to support the meaningful engagement of Inuit Language speakers in all levels of governance and in socio-economic development in Nunavut, and
- (e) as a foundation necessary to a sustainable future for the Inuit of Nunavut as a people of distinct cultural and linguistic identity within Canada;

Deploring the past government actions and policies of assimilation and the existence of government and societal attitudes that cast the Inuit Language and culture as inferior and unequal, and acknowledging that these actions, policies and attitudes have had a persistent negative and destructive impact on the Inuit Language and on Inuit;

Determined to respond to the pressures confronting the Inuit Language by ensuring that the quality and prevalent use of the Inuit Language are protected and promoted, and the Inuit Language is affirmed as

- (a) a language of education, in a system that in both its design and effect strives to equip Inuit children to enter adult life as world citizens having a rich knowledge of the Inuit Language and full ability to participate in the day-to-day life, development and cultural vibrancy of their communities and homeland,
- (b) a language of work in territorial institutions, and a necessary element in
  - (i) the development of a representative and appropriate public service environment in Nunavut, and

- (ii) the full and representative participation of the Inuit of Nunavut in the economic opportunities and development of Nunavut, and
- (c) a language used daily in services and communication with the public throughout all sectors of Nunavut society;

Emphasizing that the effective teaching and transmission of the Inuit language, especially during early childhood and in communities or age groups for which there are special concerns about language loss or assimilation, are now critical,

- (a) for improved Inuit educational achievement generally, and
- (b) for Inuit Language protection, promotion and revitalization in Nunavut;

Observing that territorial institutions have an obligation under Article 32 of the Nunavut Land Claims Agreement to design and deliver programs and services that are responsive to the linguistic goals and objectives of Inuit, and that Nunavut and Canada are the government parties obliged to implement and give effect to the land claim rights of Inuit;

Affirming the Speaker's jurisdiction over the privileges and traditions of the Legislative Assembly and the independence of the courts of Nunavut to regulate their own processes consistent with the interests of justice in individual cases;

Affirming that the Inuit of Nunavut have an inherent right to the use of the Inuit Language, and that positive action is necessary to protect and promote the Inuit Language and Inuit cultural expression, and is consistent with Canada's international undertakings, including the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights* and the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, proclaimed by the United Nations;

Observing that the fulfillment of these linguistic rights is inseparable from the equality and human dignity of Inuit, and from the promotion of Inuit self-reliance and cultural, social and economic well-being as contemplated by the Nunavut Land Claims Agreement;

Observing that positive action is necessary to ameliorate conditions of disadvantage and address systemic discrimination faced by those for whom the Inuit Language is a first, only or preferred language;

Affirming the commitment of the Government of Nunavut to uphold its obligations as a public government, including its obligations toward Francophones and Anglophones under the *Official Languages Act* of Nunavut and other laws protecting and promoting language rights and the right to equality and non-discrimination;

Determined, in return, to advocate for and to achieve the national recognition and constitutional entrenchment of the Inuit Language as a founding and official language of Canada within Nunavut; and

Understanding, because of the fundamental character of the values expressed and the important objectives of this Act, and on legal authority including sections 15, 25 to 27 and 35 of the *Constitution Act, 1982*, that the *Inuit Language Protection Act* shall enjoy quasi-constitutional status in law;

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

## Interpretation

### Definitions

**1.** (1) In this Act,

"administrative head" means

- (a) in relation to a department of the Government of Nunavut, its deputy minister,
- (b) in relation to a municipality, the senior administrative officer, and
- (c) in relation to a public agency, the chief executive officer or, if there is no chief executive officer, such individual as the Minister may designate in the regulations as administrative head for the purposes of this Act; (*responsable administratif*)

"education program" means education program as defined in subsection 1(1) of the *Education Act*; (*programme d'enseignement*)

"employee" means employee as defined in the *Public Service Act*; (*fonctionnaire ou employé*)

"Inuit Uqausinginnik Taiguusiliuqtiit" means the Inuit Language authority established by section 15; (*Inuit Uqausinginnik Taiguusiliuqtiit*)

"Languages Commissioner" means the Languages Commissioner appointed under subsection 16(1) of the *Official Languages Act*; (*commissaire aux langues*)

"Minister" means the Minister of Languages referred to in subsection 24(1), unless a contrary intention appears; (*ministre*)

"organization" means a public sector body, municipality or private sector body; (*organisation*)

"orthography" means the syllabic or roman orthography writing systems used by Inuit Language speakers in Nunavut; (*orthographe*)

"parent" means parent as defined in section 1 of the *Education Act*; (*parent*)

"private sector body" means, except as otherwise stated in or prescribed in accordance with this Act, a corporation, partnership, sole-proprietorship, society, association,

cooperative, union or other non-government entity operating in Nunavut; (*organisme du secteur privé*)

"public agency" means public agency as defined in section 1 of the *Official Languages Act*; (*organisme public*)

"public sector body" means a department of the Government of Nunavut or public agency, or a federal department, agency or institution; (*organisme du secteur public*)

"special Languages Commissioner" means a special Languages Commissioner appointed under subsection 19(1) of the *Official Languages Act*; (*commissaire aux langues spécial*)

"territorial institution" means territorial institution as defined in section 1 of the *Official Languages Act*; (*institution territoriale*)

"undue hardship" means excessive hardship as determined by evaluating the adverse consequences of a provision in this Act, by reference to such factors as

- (a) health and safety,
- (b) any significant impairment of important objectives, functions or activities of a private sector body,
- (c) an adverse impact on contractual obligations, and
- (d) the size, efficiency or viability of a private sector body. (*contrainte excessive*)

#### Inuit Language

(2) Except as directed by the Inuit Uqausinginnik Taiguusiliuqtiit under paragraph 16(5)(b), "Inuit Language" means,

- (a) in or near Kugluktuk, Cambridge Bay, Bathurst Inlet and Umingmaktuuq, Inuinnaqtun;
- (b) in or near other municipalities, Inuktitut; and
- (c) both Inuinnaqtun and Inuktitut as the Commissioner in Executive Council may, by regulation, require or authorize.

#### Inuinnaqtun

(3) In its application to Inuinnaqtun, this Act shall be interpreted and implemented in a manner that is consistent with the need to give priority to

- (a) the revitalization of Inuinnaqtun; and
- (b) improved access to communication, services, instruction and Inuit Language programs in Inuinnaqtun, under sections 3 to 10, in the communities where Inuinnaqtun is indigenous.

Constitutional rights, including aboriginal rights, paramount

2. (1) Nothing in this Act shall be construed so as to abrogate or derogate from
- (a) the status of or any constitutional or other rights in respect of the English or French languages;

- (b) any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982* including but not limited to,
  - (i) the objectives, rights and obligations affirmed in the Nunavut Land Claims Agreement, and
  - (ii) any responsibility for implementation that is required to give effect to the Nunavut Land Claims Agreement;
- (c) any legal or customary right or privilege acquired or enjoyed with respect to the Inuit Language, either before or after the coming into force of this Act; or
- (d) any responsibility of the Parliament and Crown of Canada concerning the linguistic or cultural rights or heritage of Inuit or other linguistic minorities in Nunavut.

#### Status of Inuit Language rights

(2) If a provision of sections 3 to 13 is inconsistent with or in conflict with a provision of an Act other than the *Human Rights Act*, the provision of this Act prevails except as otherwise stated.

#### Validity not affected

(3) Except as provided in subsection (2), nothing in this Act shall be construed as affecting the validity or legal effect of a communication with or service to the public, or of any document or action or procedure, to which this Act applies.

#### Act not a limit

(4) Nothing in this Act shall be construed so as to prohibit the offer or delivery of services in the Inuit Language or communications in the Inuit Language that exceed the requirements of this Act and the regulations.

## PART 1

### INUIT LANGUAGE RIGHTS AND DUTIES

#### Inuit Language Services and Use

#### Duties of every organization

- 3.** (1) Every organization shall, in accordance with this section and the regulations, if any,
- (a) display its public signs, including emergency and exit signs, in the Inuit Language together with any other language used;
  - (b) display and issue its posters and commercial advertising, if any, in the Inuit Language together with any other language used;
  - (c) ensure that the Inuit Language text of its public signs, posters and commercial advertising is at least equally prominent with any other language used; and
  - (d) provide, in the Inuit Language, its reception services and any customer or client services that are available to the general public.

### Particular services to be delivered in the Inuit Language

(2) An organization shall communicate with the public in the Inuit Language when delivering the following particular services:

- (a) essential services, including
  - (i) emergency, rescue or similarly urgent services or interventions, including intake or dispatch services, and
  - (ii) health, medical and pharmaceutical services;
- (b) household, residential or hospitality services, including
  - (i) restaurant, hotel, lodging, residential or housing services, and
  - (ii) basic services to a household, including the supply of electricity, fuel, water and telecommunications;
- (c) the other prescribed services that the Commissioner in Executive Council considers to be appropriate as the result of their essential nature or important consequences for individuals.

### Communications

(3) In addition to the requirements under subsection (1), the communications with the public referred to in subsection (2) are the following:

- (a) all notices, warnings or instructions directed to users or consumers of the service;
- (b) monthly bills, invoices and similar demands directed to persons who may be Inuit Language speakers;
- (c) the other communications that the Commissioner in Executive Council may prescribe.

### Oral and written communications

(4) Subsection (3) applies to both oral and written communications.

### Accommodation for private sector body

(5) The Languages Commissioner, after receiving a submission or an application under Part 4, and the Nunavut Court of Justice, after receiving an application under Part 4, may relieve a private sector body of an obligation that would otherwise be required under this section and substitute a less onerous requirement for communication or services in the Inuit Language, if

- (a) the private sector body is established for purposes relating primarily to the heritage, expression, strengthening or promotion of a non-Inuit linguistic or cultural community; or
- (b) satisfied that compliance with this section on the part of the private sector body would otherwise result in undue hardship.

### Government contracts

**4.** (1) Every contract issued or made by or on behalf of a department of the Government of Nunavut or a public agency, whether as a result of a request for proposals, tender or otherwise, shall require the third party communications with and services to the public in the Inuit Language that are necessary to ensure compliance with section 3.

Transitional

(2) This section does not apply to a request for proposals or tender not yet awarded or to contracts in force on the day that this section comes into force.

Exemption by order

(3) The Executive Council may, by order, exempt a contract from the operation of this section, if it considers that

- (a) the contract is for goods or services that are urgently required to assess or respond in a timely and appropriate manner to circumstances that involve a risk of harm to persons or property, or other emergency; or
- (b) unusual, urgent or compelling circumstances require that the contract be issued otherwise than in accordance with the obligations set out in this section.

Service of civil claim

**5.** In a civil claim, the Nunavut Court of Justice may

- (a) include in its rules or directions about notice or service, a requirement that the Notice to Defendant or other document before the Court be provided to an individual who may be an Inuit Language speaker with an Inuit Language translation; and
- (b) on return of the matter following service, request evidence relevant to the language preference or understanding demonstrated by the individual served.

Municipal Communications and Services

Additional communications with and services to the public

**6.** Every municipality shall make available to the public, regardless of the volume or level of demand, if any, the following additional communications and services in the Inuit Language:

- (a) street signs, traffic signs and any maps that may be produced or procured by the municipality;
- (b) activities or services delivered by the municipality relating to the social welfare of individuals or the community;
- (c) municipal notices to the public, by-law enforcement and ticketing;
- (d) interpretation at public meetings and municipal council meetings;
- (e) the other prescribed communications or services that the Commissioner in Executive Council considers to be essential as the result of their nature or consequences for individuals, for a community or for Nunavut as a whole.

Government of Nunavut translation requirement

**7.** Documents, including notices or guidelines, directed to a municipality by the Government of Nunavut for public circulation, review or comment at the municipal level, shall be provided with Inuit Language translations.

## Education

### Inuit Language instruction

**8.** (1) Every parent whose child is enrolled in the education program in Nunavut, including a child for whom an individual education plan has been proposed or implemented, has the right to have his or her child receive Inuit Language instruction.

### Duties concerning education program

(2) The Government of Nunavut shall, in a manner that is consistent with Inuit Qaujimajatuqangit,

- (a) design and enable the education program to produce secondary school graduates fully proficient in the Inuit Language, in both its spoken and written forms;
- (b) develop and implement appropriate Inuit Language competency targets necessary for the achievement of full proficiency
  - (i) for all stages of learning within the education program, consistent with paragraph (a), and
  - (ii) for an individual education plan, consistent with the individual education objectives determined under the *Education Act*;
- (c) develop and use measures of assessment, and maintain records concerning individual attainment and education program outcomes overall, in relation to the competency targets established under subparagraph (b)(i); and
- (d) develop and provide
  - (i) curriculum, classroom materials and programs in the Inuit Language relating to the objectives and competency targets established under this section, and
  - (ii) the training, certification and professional development for educators and others, including Inuit Language training and upgrading, that are necessary to produce the number, type and quality of educators required to implement this section.

### Early childhood education

**9.** To address the pre-school stage of learning, consistent with the significance of this developmental stage for language acquisition and revitalization, the Government of Nunavut shall promote early childhood Inuit Language development and learning involving children and their parents at the community level, and shall

- (a) develop and provide early childhood education materials and programs in the Inuit Language;
- (b) monitor the availability, use and outcomes of the materials and programs referred to in paragraph (a); and
- (c) develop and implement licensing standards, training, certification and professional development for child day care and other early childhood education providers.



#### Adult language acquisition and upgrading

**10.** The Government of Nunavut shall develop and provide Inuit Language acquisition and upgrading materials and programs designed for adults who wish to learn or improve their proficiency in the Inuit Language both in community learning environments and through post-secondary education.

#### Public Service

#### "Active offer" defined

**11.** In section 12, "active offer" means a clear explanation in the Inuit Language of an individual's right to use the Inuit Language during recruitment or employment, delivered in a manner that is culturally appropriate and non-coercive.

#### Language of work

**12.** (1) The Inuit Language is a language of work in territorial institutions, and every employee of a territorial institution has the right to use the Inuit Language at work to the extent and in the manner provided in this Act and the regulations.

#### Duties of territorial institution as employer

(2) Every territorial institution shall

- (a) identify and implement measures to eliminate any barriers faced by individuals who prefer to speak the Inuit Language during recruitment or in the workplace;
- (b) identify and implement measures to increase the use of the Inuit Language as a working language of the institution;
- (c) in recruitment, ensure
  - (i) that the job description includes a statement of the justified occupational requirements of the position relating to language, if any, and
  - (ii) that applicants' assessed level of competence in the Inuit Language is a criteria that receives value in the assessment of his or her overall qualifications for the position;
- (d) except when skills in a language other than the Inuit Language are a justified occupational requirement of the position, make an active offer advising applicants that they may
  - (i) submit an application entirely in the Inuit Language, and
  - (ii) if selected for an interview, to have the job interview entirely in the Inuit Language;
- (e) determine through an active offer made at the commencement of employment, whether the new employee prefers the Inuit Language as his or her language of work;
- (f) if the Inuit Language is an employee's preferred language of work,
  - (i) ensure that management is able to communicate with and supervise the employee in the Inuit Language,
  - (ii) provide any performance appraisals in the Inuit Language,
  - (iii) promote Inuit Language networks, mentoring or other innovative means of facilitating the use and strength of the

- Inuit Language among those preferring to use the Inuit Language at work, and
- (iv) accept grievances filed in the Inuit Language; and
- (g) whether or not the Inuit Language is an employee's preferred language of work,
- (i) offer Inuit Language training, upgrading and assessment of employees competence in the Inuit Language,
  - (ii) ensure that employees seeking this training or upgrading are not prevented from registering or attending by routine duties of work, and
  - (iii) maintain records concerning the individual attainment and overall outcomes from the training and upgrading provided to employees.

Other duties of territorial institutions

(3) To facilitate the use of the Inuit Language in the workplace, every territorial institution shall

- (a) ensure that the management of the institution has, collectively, the capacity to function in the Inuit Language;
- (b) issue or display internal communication directed to its employees, collectively, in the Inuit Language in addition to any other languages used;
- (c) promote the use of the Inuit Language in workplace communication generally, including interdepartmental and interagency communication; and
- (d) acquire, when available, information technology systems that are appropriate to support the use of the Inuit Language.

Duties of the Government of Nunavut

(4) To facilitate the use of the Inuit Language in the workplace, every department of the Government of Nunavut and public agency shall

- (a) **deleted, 2<sup>nd</sup> Legislative Assembly, September 10, 2008;**
- (b) in consultation with the Inuit Uqausinginnik Taiguusiliuqtiit as provided under paragraph 16(2)(d), develop the Inuit Language terminology and expressions required for the internal and external communications and functions of the department or public agency;
- (c) if the Inuit Uqausinginnik Taiguusiliuqtiit has issued a direction under paragraph 16(5)(b),
  - (i) use the standard Inuit Language as directed,
  - (ii) within a reasonable time, update the workplace and operational handbooks, manuals and similar tools used by employees in compliance with the direction, and
  - (iii) publish and facilitate the use of the standard Inuit Language terminology and expressions by employees and others.

Protection for Inuit Language speakers

(5) No territorial institution shall discharge, suspend, expel, reprimand, intimidate, harass, coerce, evict, transfer, impose a pecuniary or other penalty on or otherwise discriminate against an employee only because the employee is a unilingual speaker of the Inuit Language or prefers to speak or use the Inuit Language.

Justified occupational requirement

(6) Subsection (5) does not apply with respect to a discharge, suspension, reprimand or other disciplinary action, taken reasonably, in connection with a justified occupational requirement of the employee's position relating to language.

Application to Office of the Legislative Assembly

**12.1.** The application of subsections 12(1) to (3), or any regulation made in relation to those subsections, may be suspended or varied as they apply to the Office of the Legislative Assembly or to an independent officer of the Legislative Assembly,

- (a) by regulation, made by the Speaker on the recommendation of the Management and Services Board; or
- (b) by resolution of the Management and Services Board.

*Official Languages Act* paramount

**13.** If there is an inconsistency or conflict between section 12, or a right exercisable under section 12, and the *Official Languages Act*, the regulations made under that Act or a right exercisable under that Act, the *Official Languages Act* and the regulations made and rights exercisable under that Act prevail to the extent of the inconsistency or conflict.

Accountability of the Government of Nunavut

Accountability

**14.** Every department of the Government of Nunavut or public agency is accountable for the efficient and effective performance of its Inuit Language obligations under this Act and its role, if any, in the wider implementation of this Act

- (a) to the Executive Council through its administrative head; and
- (b) to the Legislative Assembly through its Minister.

PART 2

INUIT UQAUSINGINNIK TAIGUUSILIUQTIIT

Establishment

**15.** An Inuit Language authority is established for Nunavut, and shall be called the Inuit Uqausinginnik Taiguusiliuqtiit.

Duty of the Inuit Uqausinginnik Taiguusiliuqtiit

**16.** (1) It is the duty of the Inuit Uqausinginnik Taiguusiliuqtiit to expand the knowledge and expertise available with respect to the Inuit Language, and to consider and make decisions about Inuit Language use, development and standardization under this Act.

### Specific duties

(2) Without limiting the generality of subsection (1), the Inuit Uqausinginnik Taiguusiliuqtiit shall

- (a) develop, through consideration of the oral traditions and usage, diversity and modern needs of the Inuit Language, standardized terminology or expressions in the Inuit Language;
- (b) publish, promote and maintain a database of all the standardized terminology or expressions in the Inuit Language;
- (c) develop and publish competency levels or standards of Inuit Language use or correctness, including with respect to any dialect of the Inuit Language in local use;
- (d) on receiving a request from the Minister, the Languages Commissioner or an organization, consider proposed terminology, expressions, documents, standards, competency levels or communications in the Inuit Language and provide recommendations in response; and
- (e) establish and administer in accordance with applicable law, an award program, to recognize outstanding achievement by an organization or individual in implementing the requirements of this Act or in contributing to the development, promotion or protection of the Inuit Language.

### Research

(3) Without limiting the generality of subsection (1), the Inuit Uqausinginnik Taiguusiliuqtiit shall undertake and supervise research to support the work and performance of its duties, and shall

- (a) document and preserve traditional or historic terminology, regional variants or dialects, expressions and accounts of the Inuit Language;
- (b) identify research requirements and deficiencies relating to the use, development, learning, linguistic structure, vitality or standardization of the Inuit Language;
- (c) undertake or supervise and publish research to address the requirements and overcome the deficiencies identified;
- (d) promote quality, coherence, balance, accessibility and the avoidance of duplication in the research;
- (e) share information with an organization, academic institution or individual, within or outside Nunavut, with the objective of expanding the available knowledge about and expertise in the Inuit Language, language development or standardization more generally; and
- (f) undertake or supervise research that the Minister or Executive Council may request.

### Other cooperation

(4) Without limiting the generality of subsections (1) and (3), the Inuit Uqausinginnik Taiguusiliuqtiit may collaborate with, promote or contribute to the work

of an organization, academic institution or individual capable of expanding the knowledge and expertise available with respect to the Inuit Language, or supporting the work or any special projects of the Inuit Uqausinginnik Taiguusiliuqtiit.

#### Standard Inuit Language

- (5) The Inuit Uqausinginnik Taiguusiliuqtiit may
- (a) designate standard terminology, expressions, orthography, language or usage in the Inuit Language for
    - (i) use by an organization or in an area of activity to which this Act and the regulations apply, and
    - (ii) the communications of a department of the Government of Nunavut or public agency;
  - (b) direct a department of the Government of Nunavut or public agency to implement standard terminology, expressions, orthography or another standard language or usage in the Inuit Language that the Inuit Uqausinginnik Taiguusiliuqtiit has recommended; and
  - (c) undertake or supervise additional projects consistent with the duties of the Inuit Uqausinginnik Taiguusiliuqtiit that the Minister or Executive Council may request.

#### Powers

- 17.** (1) In order to perform its duties under this Act, the Inuit Uqausinginnik Taiguusiliuqtiit may
- (a) establish committees composed wholly or partly of its members, under the terms and conditions that the Inuit Uqausinginnik Taiguusiliuqtiit considers appropriate;
  - (b) conduct the reviews, hearings or meetings and receive the submissions or reports that the Inuit Uqausinginnik Taiguusiliuqtiit considers appropriate;
  - (c) develop, review, recommend or administer surveys or tests that evaluate Inuit Language proficiency for purposes including the certification of an individual's educational or employment skill or competency level in the Inuit Language;
  - (d) collaborate with an organization, the Languages Commissioner and any other person exercising powers or having duties under this Act;
  - (e) index or publish information concerning any matter within the authority of the Inuit Uqausinginnik Taiguusiliuqtiit; and
  - (f) advise or submit reports or recommendations to the Minister at its own initiative, concerning any matter within the authority of the Inuit Uqausinginnik Taiguusiliuqtiit.

#### Rules and procedures

- (2) Subject to this Act, the Inuit Uqausinginnik Taiguusiliuqtiit may establish rules and procedures

- (a) applying to the Inuit Uqasinginnik Taiguusiliuqtiit, or to the Minister or Government of Nunavut or to organizations dealing with the Inuit Uqasinginnik Taiguusiliuqtiit; and
- (b) governing the work, priorities and business of the Inuit Uqasinginnik Taiguusiliuqtiit and the manner in which its duties will be exercised and its powers will be performed.

Application of *Statutory Instruments Act*

(3) Rules and procedures established under subsection (2) are not statutory instruments or regulations within the meaning of the *Statutory Instruments Act*.

Matters to be considered

**18.** In exercising its powers and performing its duties, the Inuit Uqasinginnik Taiguusiliuqtiit shall, in addition to other factors that the Inuit Uqasinginnik Taiguusiliuqtiit may consider appropriate, have regard to and promote

- (a) effective communications or service delivery practices in the Inuit Language;
- (b) the progressive improvement and excellence of the teaching, use, quality and linguistic vitality of the Inuit Language at the individual and community level;
- (c) the accelerated development of the Inuit Language, including the development of new terminology that is required for effective compliance with this Act;
- (d) effective communication with and between users of an Inuit Language dialect or orthography; and
- (e) the careful assessment and selection of those recommendations, measures or approaches that are most likely to be effective in accomplishing the duties of the Inuit Uqasinginnik Taiguusiliuqtiit and the wider objectives of this Act, and not likely to result in any disproportionate adverse impact on an individual or group.

Consultation

**19.** In exercising its powers and performing its duties, the Inuit Uqasinginnik Taiguusiliuqtiit

- (a) may consult with the public or any organization or group likely to be impacted by a recommendation or approach under consideration by the Inuit Uqasinginnik Taiguusiliuqtiit in the manner that the Inuit Uqasinginnik Taiguusiliuqtiit considers appropriate and fair; and
- (b) shall consult, as required by Article 32 of the Nunavut Land Claims Agreement and any other law, with any organization or group of Inuit, or any municipality likely to be impacted by a recommendation or approach under consideration by the Inuit Uqasinginnik Taiguusiliuqtiit.

### Membership

**20.** (1) The Inuit Uqausinginnik Taiguusiliuqtiit consists of at least five members appointed by the Commissioner in Executive Council, on the recommendation of the Minister.

### Eligibility

(2) To be eligible for appointment to the Inuit Uqausinginnik Taiguusiliuqtiit, an individual must demonstrate

- (a) excellent fluency in the Inuit Language;
- (b) traditional or academic expertise concerning the history, diversity, status, use, teaching, development or needs of the Inuit Language or the willingness and ability to consider and apply such expertise;
- (c) personal knowledge concerning more than one regional variant or dialect of the Inuit Language or the willingness to consider and respond to such knowledge; and
- (d) the capacity to assist the Inuit Uqausinginnik Taiguusiliuqtiit in performing its duties and exercising its powers.

### Other qualifications

(2.1) The Commissioner in Executive Council may, on the recommendation of the Minister, establish additional qualifications or factors to be considered when appointing members to the Inuit Uqausinginnik Taiguusiliuqtiit.

### Appointment process

(3) Before the Commissioner in Executive Council makes an appointment, the Minister shall

- (a) solicit nominations from organizations and from the general public;
- (b) seek advice respecting the nominations from a committee that includes equal representation from the Government of Nunavut and Nunavut Tunngavik Incorporated and such other representatives of the public or of any particular sector of Nunavut society as the Minister may, by regulation, require;
- (c) relay the advice of the committee on the nominations and the Minister's recommendation for the appointment to the Commissioner in Executive Council.

### Term

(4) A member of the Inuit Uqausinginnik Taiguusiliuqtiit shall hold office for a renewable term of three years, except that the first members appointed shall hold office for a renewable term of three to five years as expressed in their appointments.

### Renewal

(5) If both the member in question and Nunavut Tunngavik Incorporated agree, the term of a member of the Inuit Uqausinginnik Taiguusiliuqtiit may be renewed.

Termination for cause

(6) The appointment of a member of the Inuit Uqausinginnik Taiguusiliuqtiit shall not be terminated except for cause.

Notice of resignation

(7) A member of the Inuit Uqausinginnik Taiguusiliuqtiit who wishes to resign shall provide the Minister with a notice of resignation, in writing.

Continuation after expiry

(8) Except as otherwise provided in this section, a member continues to hold office after the expiry of the term referred to in subsection (4) until reappointed, or until a successor is appointed.

Vacancy

(8.1) If there is a vacancy in the Inuit Uqausinginnik Taiguusiliuqtiit, the Commissioner in Executive Council

- (a) shall, within 180 days, appoint another individual to serve for the unexpired term of that member; and
- (b) may appoint another individual to serve for the unexpired term of that member if, after the expiry of 150 days, a nomination has not been made pursuant to paragraph (3)(a) or a committee has not provided advice under paragraph (3)(b).

Remuneration and expenses

(9) The Commissioner in Executive Council may, in accordance with the *Financial Administration Act*, provide for the remuneration of and allowance for expenses by members of the Inuit Uqausinginnik Taiguusiliuqtiit in carrying out the members' duties under this Act.

Liability

(10) No legal action or other proceeding may be brought against a member of the Inuit Uqausinginnik Taiguusiliuqtiit 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 Inuit Uqausinginnik Taiguusiliuqtiit under this Act.

Designation of chairperson and vice-chairperson

**21.** (1) The Minister shall designate a chairperson and vice-chairperson from among the members of the Inuit Uqausinginnik Taiguusiliuqtiit, after consultation with the members.

Chairperson

(2) The chairperson shall preside at meetings of the Inuit Uqausinginnik Taiguusiliuqtiit and shall direct its activities and coordinate the exercise of its powers and the performance of its duties under this Act.



Vice-chairperson

(3) If the chairperson is absent, unable to act or that office is vacant, the vice-chairperson may act as the chairperson and may exercise the powers and perform the duties of the chairperson.

Employees

**22.** (1) The Minister shall assign the employees necessary to support the exercise of the powers and performance of the duties of the Inuit Uqausinginnik Taiguusiliuqtiit.

Engaging assistance

(2) The Minister may engage or retain the services of experts and other persons, including Elders, that the Minister considers necessary to support the exercise of the powers and performance of the duties of the Inuit Uqausinginnik Taiguusiliuqtiit.

**Amendment**

**(3) On the earlier of three years after the day on which this Act receives assent, or a day fixed by order of the Commissioner, section 22 is repealed and the following is substituted:**

Employees

22. (1) The Inuit Uqausinginnik Taiguusiliuqtiit may appoint the employees necessary for the exercise of its powers and conduct of its duties, despite the *Public Service Act*.

*Public Service Act*

(2) Individuals appointed under subsection (1) are members of the public service as defined in the *Public Service Act*.

Status of the chairperson

(3) For all purposes relating to this section, the chairperson designated under section 21(1) shall rank as and exercise the powers of a deputy head under the *Public Service Act*.

Technical assistance

22.1. (1) The Inuit Uqausinginnik Taiguusiliuqtiit may engage or retain the services of experts and other persons, including Elders, considered necessary to the exercise of the powers and performance of the duties of the Inuit Uqausinginnik Taiguusiliuqtiit, and may determine their remuneration.

*Public Service Act* does not apply

(2) The *Public Service Act* does not apply to the retention, remuneration or engagement of experts and other persons, including Elders, under subsection (1).

Annual report

**23.** (1) The Inuit Uqausinginnik Taiguusiliuqtiit shall, within nine months after the end of each fiscal year, prepare and submit to the Minister and to the Speaker of the

Legislative Assembly an annual report on the performance of its statutory duties and exercise of statutory powers, including the following information:

- (a) the activities of the Inuit Uqausinginnik Taiguusiliuqtiit during the preceding fiscal year;
- (a.1) copies or summaries, as the Inuit Uqausinginnik Taiguusiliuqtiit considers to be appropriate, of the reports or recommendations submitted or advice provided to the Minister under paragraph 17(1)(f), if any;
- (b) the results achieved;
- (c) an assessment of the strength or needs of the Inuit Language;
- (d) the priorities of the Inuit Uqausinginnik Taiguusiliuqtiit and any change of priorities made or anticipated in the interest of a more effective response to the needs of the Inuit Language;
- (e) any other information that the Minister may require.

Tabling annual report

(2) The Speaker shall cause the annual report of the Inuit Uqausinginnik Taiguusiliuqtiit to be laid before the Legislative Assembly as soon as is reasonably practicable.

### PART 3

#### RESPONSIBILITIES OF THE MINISTER OF LANGUAGES

Minister of Languages

**24.** (1) The Minister of Languages, appointed by the Commissioner on the advice of the Premier under section 66 of the *Legislative Assembly and Executive Council Act*, shall coordinate, administer and advocate the full, efficient and effective realization and exercise of the rights and privileges established under this Act.

Inuit Language promotion

(2) Without limiting the generality of subsection (1), the Minister shall develop policies or programs intended to promote

- (a) the use and development of the Inuit Language so that it can be used in the full range of activities and sectors of Nunavut society;
- (b) increased learning, proficiency and linguistic vitality of the Inuit Language, including its revitalization through initiatives targeting communities or age groups in which there are special concerns about language loss or assimilation;
- (c) at the community level,
  - (i) initiatives for the use, teaching, development, promotion or preservation of the Inuit Language, and
  - (ii) increased community capacity for the assessment of local needs and the planning and management of local initiatives for the promotion of the Inuit Language;
- (d) public awareness and appreciation of the history, use, status, importance and diversity of the Inuit Language in Nunavut;

- (e) the increased production and use in all sectors of Nunavut society of linguistic expression using all kinds of media, in the Inuit Language;
- (f) the identification and development of the content and methods or technologies for Inuit Language media distribution or access, that have the greatest potential to promote the use or revitalization of the Inuit Language, including print, film, television, radio, digital audio or video, interactive or any other media;
- (g) public access to and information about available Inuit Language resources and tools;
- (h) public understanding of this Act and the regulations;
- (i) the efficient and effective implementation of and compliance with this Act by territorial institutions;
- (j) the national, international and private sector recognition of and support for the Inuit Language, including its recognition in law;
- (k) dialogue and co-operation with the representatives of Inuit outside Nunavut, with the objective of protecting, developing and promoting the Inuit Language; and
- (l) the Inuit Language by other means that the Executive Council may require or authorize.

#### Limitation

(3) The exercise of the powers and the performance of the duties of the Minister under this section are limited by and shall conform to

- (a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and
- (b) the independence, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

#### Implementation plan and powers

**25.** (1) The Minister shall include in the implementation plan referred to in subsection 13(3) of the *Official Languages Act*, a separate comprehensive plan to ensure the coordinated implementation of this Act and, to this end, the Minister may exercise the powers and shall perform the duties, including consultation, that are assigned to the Minister under subsections 13(3) to (6) of the *Official Languages Act*.

#### Strategy for revitalization and promotion

(2) As it relates to this Act, the implementation plan must include a strategy designed to

- (a) identify and coordinate activities and measures to be taken for the purpose of Inuit Language revitalization and promotion, particularly targeting communities and age groups for which there are special concerns about language loss or assimilation; and
- (b) clarify the roles and responsibilities to be discharged to implement the strategy, including those of government, or any private sector bodies, communities or members of the public.

Minister may direct

(3) The Minister may direct that a department of the Government of Nunavut or a public agency shall do all or any of the following:

- (a) provide information, submissions or program-specific expertise to the Inuit Uqausinginnik Taiguusiliuqtiit that the Inuit Uqausinginnik Taiguusiliuqtiit has requested or recommended or that the Minister considers to be appropriate to the exercise of the powers and the performance of the duties of the Inuit Uqausinginnik Taiguusiliuqtiit;
- (b) collaborate with the Inuit Uqausinginnik Taiguusiliuqtiit for the development of competency assessments tailored for
  - (i) all or any part of the public service, or
  - (ii) all or any class or sub-division of teachers or students under the *Education Act*, *Child Day Care Act*, *Public Colleges Act* or other legislation applicable to teachers or students in Nunavut;
- (c) use or require participation in a competency assessment, test or survey developed, recommended or administered by the Inuit Uqausinginnik Taiguusiliuqtiit.

Agreement

**26.** The Minister may, on behalf of the Government of Nunavut, enter into an agreement with any person or organization, respecting any matter under this Act that the Minister considers appropriate.

Minister's annual report

**27.** The Minister shall include in a report under section 15 of the *Official Languages Act* a separate description of

- (a) all the activities, results achieved and use of government resources during the preceding fiscal year in relation to the discharge of language obligations under this Act;
- (b) the establishment, operation or performance of policies, programs and services in this regard;
- (c) the number and nature of the reports and recommendations provided by the Inuit Uqausinginnik Taiguusiliuqtiit pursuant to subsection 17(1), the government response in each case and, if a report or recommendation has not been accepted or implemented, an explanation for the government response; and
- (d) the other information relating to this Act and the regulations that the Minister considers appropriate.

PART 4

COMPLIANCE

Languages Commissioner's Role

Inuit Qaujimajatuqangit

**27.1.** (1) The following general principles and concepts of Inuit Qaujimajatuqangit apply in respect of the exercise of the powers and performance of the duties of the Languages Commissioner under sections 28 to 35 and section 37:

- (a) *Inuuqatigiitsiarniq* (respecting others, relationships and caring for people);
- (b) *Tunnganarniq* (fostering good spirit by being open, welcoming and inclusive);
- (c) *Pijitsirniq* (serving and providing for family or community, or both);
- (d) *Aajiiqatigiinni* (decision making through discussion and consensus);
- (e) *Piliriqatigiinni* or *Ikajuqtiigiinni* (working together for a common cause);
- (f) *Qanuqtuurniq* (being innovative and resourceful).

Other Inuit societal values

(2) The Languages Commissioner may, in the exercise of the powers and performance of the duties of the Languages Commissioner, identify, use or incorporate other Inuit societal values that the Languages Commissioner considers to be relevant and beneficial.

Duty of Languages Commissioner

**28.** (1) The Languages Commissioner shall take all actions and measures within the authority of the Languages Commissioner to ensure that the rights, status and privileges established by this Act with respect to the Inuit Language are recognized and performed.

Advice on request

(2) The Languages Commissioner may, on request, advise an organization regarding the specific actions or approaches the Languages Commissioner considers appropriate for compliance with this Act and the regulations.

Assistance to Inuit Uqausinginnik Taiguusiliuqtiit

(3) On the request of the Inuit Uqausinginnik Taiguusiliuqtiit, the Languages Commissioner may provide reasonable assistance to support the informed and effective exercise of a power or performance of a duty of the Inuit Uqausinginnik Taiguusiliuqtiit.

## Inuit Language Plan

### Inuit Language plan

- 29.** (1) An organization that is not a territorial institution may manage its compliance with this Act by means of an Inuit Language plan, which must include the following:
- (a) the organizational measures, policies and practices proposed for the communications with or delivery of services to the public that are required under this Act;
  - (b) a schedule for giving effect to the measures, policies or practices;
  - (c) an indication of the numbers of the organization's staff, if any, that are or will be fluent in the Inuit Language and able to communicate with or deliver services to the public in the Inuit Language as required under this Act; and
  - (d) the ways in which the organization will ensure that the Inuit Language plan and the availability of communications with or services to the public in the Inuit Language are publicized.

### Guidelines

(2) The Languages Commissioner may provide or publish guidelines for additional information to be included in an Inuit Language plan.

### Submission to the Languages Commissioner

**30.** (1) An organization that is not a territorial institution may submit a proposed plan for communications with or services to the public in the Inuit Language to the Languages Commissioner for approval.

### Review

(2) The Languages Commissioner shall review the proposed Inuit Language plan, having regard to the views of any other individual or organization that the Languages Commissioner considers appropriate.

### Approval in writing

(3) If the Languages Commissioner is satisfied that the plan complies with the requirements of this Act and the regulations, the Languages Commissioner shall approve the plan in writing.

### Effect of approval

(4) If the Languages Commissioner is satisfied that the communications with or delivery of services to the public required by this Act or the regulations are being provided in accordance with a plan approved under subsection (3), the Languages Commissioner may discontinue any investigation commenced under section 31 concerning communications or services provided to the public in accordance with the Inuit Language plan.

### Inform applicant

(5) If the Languages Commissioner refuses to investigate or discontinues an investigation under subsection (4), the Languages Commissioner shall

- (a) inform the applicant and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and
- (b) provide a written confirmation to the applicant
  - (i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (4), and
  - (ii) the date when the information required by paragraph (a) was provided.

#### Plan amendment or revocation

(6) If the Languages Commissioner is satisfied that, by reason of a change in circumstances, a plan approved under subsection (3) has ceased to comply with this Act and the regulations, the Languages Commissioner may, in writing,

- (a) invite an organization to submit an amended plan within a specified time; and
- (b) revoke the approval to the extent required by the change in circumstances.

### Application for Investigation

#### Application for investigation

**31.** (1) A person may apply to the Languages Commissioner orally, or in another form that the Languages Commissioner considers to be satisfactory, for the investigation of concerns that, in the administration of an organization to which this Act applies,

- (a) a provision of this or any other Act or regulation relating to the use, promotion or protection of the Inuit Language has not been complied with; or
- (b) the spirit and intent of this Act has not been fulfilled.

#### Third parties may apply

(2) For greater certainty, a person with legal capacity need not be a parent, an employee, or in any way directly affected, in order to apply to the Languages Commissioner for the investigation of concerns that an organization to which this Act applies has not complied with the requirements of sections 8 to 12 or with the spirit and intent of this Act as it relates to those provisions.

#### Languages Commissioner may initiate

(3) On the Languages Commissioner's own initiative, the Languages Commissioner may commence an investigation relating to the grounds for concern referred to in subsection (1).

#### Territorial institution

(4) If an investigation commenced under this section relates to concerns regarding the administration of a territorial institution, sections 25 to 36 of the *Official Languages Act* govern the Languages Commissioner's investigation and report.

#### Other organization

(5) If an investigation commenced under this section relates to concerns regarding the administration of an organization that is not a territorial institution, sections 32 to 42 of this Act govern the Languages Commissioner's investigation and report.

#### Non-investigative resolution

**32.** The Languages Commissioner may, at any time before or during an investigation,

- (a) engage an organization in the voluntary preparation or amendment of an Inuit Language plan; or
- (b) use mediation or other means consistent with Inuit Qaujimagatuqangit in attempting to resolve concerns identified in an application or investigation.

#### Protection for involved persons

**33.** (1) No person shall discharge, suspend, expel, intimidate, coerce, evict, impose a pecuniary or other penalty on or otherwise discriminate against a person because that person applies for an investigation, gives evidence or assists in an investigation or the reporting of a concern to the Languages Commissioner.

#### Penalty

(2) Every person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction,

- (a) if an individual, to a fine not exceeding \$5,000; and
- (b) if a body corporate or another body with legal capacity, to a fine not exceeding \$25,000.

### Investigation

#### Reasonable grounds to investigate

**34.** (1) If, after initial review of an application, the Languages Commissioner is satisfied that there are reasonable grounds to investigate, the Languages Commissioner shall investigate.

#### Combining investigations

(2) The Languages Commissioner may conduct a single investigation of two or more applications, if he or she is satisfied that it is fair and reasonable in the circumstances to do so.

#### Notice

(3) On commencing an investigation, the Languages Commissioner shall provide a notice of the investigation to an organization whose communications with or services to the public or other conduct are of concern.

#### Absence of reasonable grounds

**35.** (1) The Languages Commissioner shall refuse to investigate or shall discontinue an investigation if, after initial review of an application received under subsection 31(1),



the Languages Commissioner determines that there are not reasonable grounds to investigate.

#### Refuse or discontinue investigation

(2) The Languages Commissioner may refuse to investigate or may discontinue an investigation if, in the opinion of the Languages Commissioner, any of the following situations exist:

- (a) the concerns identified primarily affect an individual or individuals other than the applicant, and the directly affected individual or individuals do not wish to proceed;
- (b) all or part of the concerns identified in the application may be dealt with and remedied, adequately and appropriately, under another Act or using another available procedure;
- (b.1) the application is frivolous, vexatious, not made in good faith or concerns a trivial matter;
- (b.2) the application is not within the jurisdiction of the Languages Commissioner;
- (c) the applicant has withdrawn or abandoned the application;
- (d) the concerns identified in the application have been resolved.

#### Considerations

(2.1) Before making a determination under subsection (1) or (2), the Languages Commissioner shall consider all relevant circumstances, including the possibility that an applicant or a directly affected individual may be reluctant to proceed or that an application may have been withdrawn, abandoned or represented as having been resolved because of an abuse or imbalance of power.

#### Inform applicant

(3) If the Languages Commissioner refuses to investigate or discontinues an investigation, the Languages Commissioner shall

- (a) inform the applicant and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and
- (b) provide a written confirmation to the applicant
  - (i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (1) or (2), and
  - (ii) the date when the information required by paragraph (a) was provided.

#### Investigation powers and procedure

**36.** (1) During an investigation, the Languages Commissioner may request and obtain information from the persons and in the manner the Languages Commissioner considers appropriate, and may take one or more of the following actions without being bound by the rules of evidence or proceedings in civil cases:

- (a) at any reasonable time, enter and inspect an area or premises, other than a dwelling house, to which the public has access;
- (b) make the inquiries while in those premises that Languages Commissioner considers appropriate, including talking in private with any individual on a voluntary basis;
- (c) request and examine information, records and objects, make or require copies or take photographs that the Languages Commissioner considers relevant to the concerns under investigation;
- (d) accept or exclude any information or evidence as the Languages Commissioner considers appropriate, whether or not it would be admissible or excluded in a civil case.

#### Summons and disclosure

(2) Subject to giving reasonable notice, the Languages Commissioner may exercise the following additional powers in the course of an investigation:

- (a) summon and enforce the appearance of a person as a witness;
- (b) administer oaths and affirmations;
- (c) compel a person to give evidence on oath or affirmation, including by way of an affidavit, at a time and place the Languages Commissioner specifies;
- (d) compel a person to produce documents and things in the person's possession or control that the Languages Commissioner considers relevant to the concerns under investigation, at a time and place the Languages Commissioner specifies.

#### Other powers

(3) In exercising the powers under subsections (1) and (2), the Languages Commissioner has the same powers and duties as are vested in a court of law in civil cases.

### Procedure after Investigation

#### Powers of the Languages Commissioner if concern substantiated

**37.** (1) If, after carrying out an investigation under this Act, the Languages Commissioner considers that a concern under investigation is substantiated, the Languages Commissioner may

- (a) recommend the specific measures, policies and practices that an organization may undertake in order to comply with this Act;
- (b) direct an organization to inform the Languages Commissioner within a specified time of the action taken or proposed to correct its practices;
- (c) if no action is taken or proposed within the time specified under paragraph (b), use the powers set out in subsections 36(2) and (3) to summon and enforce the appearance of a person, and compel the person to produce documents, things or evidence;

- (d) publish information about an organization, including measures recommended under paragraph (a) or information received under paragraph (b) or (c); and
- (e) apply to the Nunavut Court of Justice for a remedy under subsection 39(1) and include in the Languages Commissioner's application an affidavit containing the Languages Commissioner's findings and the recommendations, if any, that the Languages Commissioner considers appropriate.

Inform affected persons

- (2) The Languages Commissioner shall in every case
  - (a) at a time and in a manner that the Languages Commissioner considers appropriate and consistent with section 38, inform the applicant and such other affected persons as the Languages Commissioner considers appropriate of the Language Commissioner's findings and the powers exercised under subsection (1); and
  - (b) confirm in writing to the applicant and such other affected persons as the Languages Commissioner considers appropriate
    - (i) that the Languages Commissioner has concluded the investigation; and
    - (ii) the date when the information required by paragraph (a) was provided.

Rules, Procedures and Forms

Rules, procedures and forms

**37.1.** (1) Subject to this Act, the Languages Commissioner shall make rules governing the procedures and forms that may be used and the manner in which the powers conferred and duties imposed by this Act will be exercised and performed.

Application of *Statutory Instruments Act*

(2) Rules made under subsection (1) are not statutory instruments or regulations within the meaning of the *Statutory Instruments Act*.

Confidentiality and Disclosure of Information

Confidentiality

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

Necessary disclosure

(2) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf or under the direction of the Languages

Commissioner to disclose, information that the Languages Commissioner considers necessary to

- (a) further an investigation; or
- (b) establish grounds for conclusions and recommendations made in a report issued in the course of the exercise of a power or the performance of a duty of the Languages Commissioner.

Disclosure for proceedings under Act

(3) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf of or under the direction of the Languages Commissioner to disclose, information that the Languages Commissioner or a court considers necessary in a proceeding under this Act or the *Official Languages Act*, or an appeal of such proceeding.

Evidence not compellable

(4) The Languages Commissioner and any person acting on behalf of or under the direction of the Languages Commissioner 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, except in a proceeding under this Act or the *Official Languages Act*, or an appeal of such proceeding.

Public interest

(5) The Languages Commissioner may, if the Languages Commissioner considers it to be appropriate in the public interest after an investigation and any related proceedings are finally concluded, publish general information relating to an organization's communications with or delivery of services to the public in the Inuit Language, including case studies or commentaries about the practical application and operation of this Act and the regulations.

Confidential information of a private sector body

(5.1) Subsection (5) does not authorize the disclosure of financial, commercial, scientific, technical, labour relations or other confidential information, that is supplied by a private sector body to support a request for accommodation under paragraph 3(5)(b), and that has not been previously published.

Same

(5.2) Confidential information supplied by a private sector body to support a request for accommodation under paragraph 3(5)(b) shall not be disclosed except in accordance with the *Access to Information and Protection of Privacy Act*.

Paramountcy

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

## Reports and information

### Reports and information final

**38.1.** (1) Reports and information provided by the Languages Commissioner under this Act are not subject to appeal or to review by a court.

### Use of reports

(2) Despite subsection (1), if an application is filed under subsection 39(1) or paragraph 40(1)(a), a report purported to be provided by the Languages Commissioner under this Act is admissible in evidence as proof, in the absence of evidence to the contrary, of the contents of the report and that the Languages Commissioner provided the report.

## Enforcement in the Nunavut Court of Justice

### Enforcement application

**39.** (1) An application may be made to the Nunavut Court of Justice for a remedy that the Court considers appropriate and just in the circumstances by a person who has applied to the Languages Commissioner under subsection 31(1) or a person who is directly affected by an outcome of an investigation under this Act if

- (a) the Language Commissioner has refused or discontinued an investigation under subsection 30(4), 35(1) or (2);
- (b) the Languages Commissioner has informed the applicant about powers exercised under subsection 37(1); or
- (c) more than one year has passed since the day the application was made and the applicant has not been informed that an investigation has been refused or discontinued or of the progress or outcome of the investigation.

### Limitation period

(2) Subject to subsection (3), an application may not be made under subsection (1)

- (a) more than one year after the day on which the applicant
  - (i) is informed, under subsection 30(5) or 35(3), of the Languages Commissioner's decision to refuse or discontinue an investigation, or
  - (ii) is informed, under subsection 37(2), of the discretion exercised by the Languages Commissioner; or
- (b) more than two years after the date of the initial application to the Languages Commissioner, if the applicant has not received the information referred to in paragraph (a) after the expiry of one year.

### Filing after time expired

(3) The Nunavut Court of Justice may accept an application filed after the expiration of the time limit referred to in subsection (2) if the Court determines that

- (a) the delay in filing was incurred in good faith; and

- (b) the refusal to waive a time limit would result in a greater adverse impact on the applicant, as compared to the prejudice, if any, experienced by any other person as the result of the delay.

#### Other rights of action

(4) Nothing in this section abrogates or derogates from any right of action a person might have other than the right of action set out in this section.

#### Languages Commissioner may apply or appear

- 40.** (1) The Languages Commissioner may
- (a) apply to the Nunavut Court of Justice for a remedy within the time limit established by subparagraph 39(2)(a)(ii) only after obtaining, in writing, the consent of an applicant;
  - (b) appear before the Nunavut Court of Justice on behalf of a person who has applied under subsection 39(1) for a remedy; or
  - (c) with leave of the Nunavut Court of Justice, appear as a party to a proceeding under subsection 39(1).

#### Applicant may appear

(2) If the Languages Commissioner makes an application under paragraph (1)(a), an applicant may appear as a party in the proceedings.

#### Capacity to intervene

(3) Nothing in this section affects the capacity of the Languages Commissioner to seek leave to intervene in any adjudicative proceedings relating to the status or use of the Inuit Language.

#### Order to participate

- 41.** The Nunavut Court of Justice may, in addition to any other interim order or direction that the Court considers appropriate, issue an interim order requiring an organization and such persons as the Court considers appropriate,
- (a) to participate with a special Languages Commissioner in the preparation of an Inuit Language plan; and
  - (b) to provide information to the special Languages Commissioner for this purpose.

#### Relief

- 42.** The Nunavut Court of Justice may, in addition to any other remedy the Court considers appropriate,
- (a) order an organization to take specific remedial action to correct its practices in order to comply with this Act and the regulations;
  - (b) order an organization or the Languages Commissioner to publish a notice or account of a remedial action taken or proposed to be taken to correct the practices of the organization, whether or not the Court has exercised powers under paragraph (a);

- (c) specify the role, if any, that the Court will have in supervising the preparation of an Inuit Language plan or other compliance with an order under this Act; and
- (d) award damages, including damages to an individual for any affront to dignity that individual may have suffered.

## PART 5

### MISCELLANEOUS

#### Review of Act

Review in conjunction with *Official Languages Act*

**43.** (1) Except as directed by motion of the Legislative Assembly, section 37 of the *Official Languages Act* governs the review of this Act.

Inuit Uqausinginnik Taiguusiliuqtiit

(2) A review under subsection (1) shall include a review of the status of the Inuit Uqausinginnik Taiguusiliuqtiit, and whether or not administrative independence is necessary for its work.

#### Regulations

Regulations

**44.** (1) The Commissioner in Executive Council, on being satisfied that appropriate consultation has occurred and that the requirements of Article 32 of the Nunavut Land Claims Agreement have been fulfilled, may make regulations

- (a) under subsection 1(1), identifying by class, condition or circumstance the situations in which a private sector body to which this Act would otherwise apply is or may be exempted;
- (a.1) under paragraph 1(2)(c), respecting the circumstances or instances in which both Inuinnaqtun and Inuktitut must be used under this or any other Act;
- (a.2) under subsection 3(1) as it applies to private sector bodies, in respect of a specified place, class, condition or circumstance,
  - (i) detail an obligation set out in section 3,
  - (ii) vary an obligation set out in section 3 and substitute a less onerous or different requirement for communication or services in the Inuit Language, or
  - (iii) waive an obligation set out in section 3;
- (b) setting out the other services to the public referred to in paragraph 3(2)(c);
- (c) setting out the other communications referred to in paragraph 3(3)(c);
- (d) setting out the additional communications and services referred to in paragraph 6(e);

- (e) respecting any matter the Commissioner in Executive Council considers necessary to effect compliance with sections 8 to 12, including any matter required to ensure their efficient and effective implementation;
- (f) respecting the performance of duties or the exercise of powers by the Inuit Uqausinginnik Taiguusiliuqtiit under this Act;
- (g) **deleted, 2<sup>nd</sup> Legislative Assembly, September 10, 2008;**
- (h) respecting any matter the Commissioner in Executive Council considers necessary to support the Minister's performance of duties and exercise of powers under this Act; and
- (i) respecting any matter the Commissioner in Executive Council considers necessary to carry out the purposes and provisions of this Act.

#### Independence affirmed

(2) This section does not empower the Commissioner in Executive Council to make regulations respecting the Legislative Assembly, the Nunavut Court of Justice or the Court of Appeal.

#### Other prerequisites

- (3) At least four months before a regulation is made under subsection (1),
- (a) the proposed regulation shall be published in the *Nunavut Gazette*, together with an Inuit Language translation and information about the manner in which interested persons may comment on the proposed regulation;
  - (b) a notice of the proposed regulation, stating where a copy of it and an Inuit Language translation of it may be obtained and information about the manner in which interested persons may comment on the proposed regulation, shall be published in at least one newspaper of general circulation in Nunavut; and
  - (c) the Minister shall notify the Speaker and Nunavut Tunngavik Incorporated that a proposed regulation has been published as required by paragraph (a).

#### Report on development process

(4) To support the determination required in subsection (1), the Minister shall provide a report to the Commissioner in Executive Council, summarizing the measures undertaken to request and obtain public or other input about the regulation, the Minister's manner of compliance with Article 32 of the Nunavut Land Claims Agreement and whether or in what manner the regulation proposed responds to the issues raised during the development of the regulation and in the course of compliance with this section.

#### Report on the proposed regulation

(5) The Minister shall submit the report referred to in subsection (4) to the Speaker of the Legislative Assembly.



Tabling report

(6) The Speaker shall cause the report to be laid before the Legislative Assembly as soon as is reasonably practicable.

Legislative Assembly Regulations

**44.1.** (1) The Speaker, on the recommendation of the Management and Services Board, may make regulations respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act as the Speaker, on the recommendation of the Management and Services Board, considers necessary, including but not limited to regulations respecting signage, notices, translation, interpretation and the giving of notice.

Rules of Court

(2) The Nunavut Court of Justice and the Court of Appeal may, subject to the approval of the Commissioner, make rules respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act or in procedural rules already in force, including rules respecting signage, notices, translation, interpretation and the giving of notice.

## CONSEQUENTIAL AMENDMENTS

### *Financial Administration Act*

**45. On the coming into force of subsection 22(3), Schedule A of the *Financial Administration Act* is amended by adding the following after item 4.1:**

4.2. The Inuit Uqausinginnik Taiguusiliuqtiit established by the *Inuit Language Protection Act*.

### *Interjurisdictional Support Orders Act*

**46. Subsection 37(3) of the *Interjurisdictional Support Orders Act* is amended by striking out "Inuktitut, Inuinnaqtun" wherever it appears and substituting "the Inuit Language".**

### *Mental Health Act*

**47. (1) The *Mental Health Act* is amended by this section.**

**(2) The definition "aboriginal language" in section 1 is repealed and the following definition is substituted in alphabetical order:**

"Inuit Language" means Inuit Language as defined in the *Inuit Language Protection Act*; (*langue inuit*)

**(3) Subsections 7(2) and (4) of the *Mental Health Act* are amended by striking out "aboriginal person" wherever it appears, and substituting "Inuk" and by striking**

**out "an aboriginal language" wherever it appears, and substituting "the Inuit Language".**

*Wildlife Act*

**48. Subsection 3(2) of the *Wildlife Act* is amended by striking out "Inuktitut" wherever it appears and substituting "the Inuit Language".**

*Conditional Amendment to this Act*

**48.1. If Bill 21, *Education Act*, introduced in the Fourth Session of the Second Legislative Assembly receives assent, on the coming into force of section 4 of that Act, the definition "parent" in subsection 1(1) of this Act is repealed and the following is substituted:**

"parent" means parent as determined under section 4 of the *Education Act*; (*parent*)

**COMMENCEMENT**

**Coming into force**

**49. (1) Sections 1, 2, 14, 15 and 20 to 23 and Parts 3 and 5 come into force on assent.**

**(2) Sections 3 to 5 come into force on a day or days to be fixed by order of the Commissioner.**

**(3) Sections 6 and 7 come into force four years after the day on which this Act receives assent.**

**(4) Section 8 comes into force**

**(a) for Kindergarten to Grade 3 on July 1, 2009; and**

**(b) for all other primary and secondary grades on July 1, 2019.**

**(5) Sections 9 and 10 come into force on a day or days to be fixed by order of the Commissioner.**

**(6) Sections 11 to 13 come into force three years after the day on which this Act receives assent.**

**(6.1) Sections 16 to 19 come into force one year after the day on which this Act receives assent, or on a day or days to be fixed by order of the Commissioner, whichever is earlier.**

**(7) Part 4 comes into force on July 1, 2009, or on a day or days to be fixed by order of the Commissioner, whichever is earlier.**

## AMENDMENT

### Amendment

**50. (1) This Act is amended as set out in this section if, on the day on which this Act receives assent, the *Official Languages Act*, S.Nu. 2008, c. 10, has not received the concurrence of Parliament required by section 38 of the *Nunavut Act* (Canada).**

**(2) The definition "Languages Commissioner" in subsection 1(1) is amended by striking out "subsection 16(1) " and substituting" subsection 18(1)".**

**(3) The following definition is added to subsection 1(1) in alphabetical order:**

"Management and Services Board" means the Management and Services Board established by the *Legislative Assembly and Executive Council Act*; (*Bureau de régie et des services*)

**(4) The definition "public agency" in subsection 1(1) is repealed and the following substituted:**

"public agency" means, unless otherwise provided by regulation, a body that is

- (a) established by the laws of Nunavut,
- (b) subject to the direction of a Minister or the Executive Council, and
- (c) identified as a public agency under subsection 1(1) of the *Financial Administration Act*; (*organisme public*)

**(5) The definition "special Languages Commissioner" in subsection 1(1) is repealed.**

**(6) The definition "territorial institution" in subsection 1(1) is repealed and the following substituted:**

"territorial institution" means

- (a) the Government of Nunavut,
- (b) a judicial or quasi-judicial body,
- (c) the Legislative Assembly, and
- (d) a public agency; (*institution territoriale*)

**(7) Paragraph 24(2)(i) is repealed.**

**(8) Section 25 is repealed and the following substituted:**

Implementation duties

25. (1) The Minister shall
- (a) promote the efficient and effective implementation of and compliance with this Act by territorial institutions and municipalities;

- (b) coordinate the implementation, monitoring, management and evaluation of language obligations, policies, programs and services by departments of the Government of Nunavut and public agencies; and
- (c) undertake other implementation duties and functions as required by the Commissioner in Executive Council.

#### Implementation plan

(2) The Minister shall, in consultation with territorial institutions and municipalities,

- (a) develop and maintain a comprehensive plan for the implementation of language obligations, policies, programs and services by departments of the Government of Nunavut and public agencies;
- (b) address, in separate sections of the plan, all the activities and government resources needed to implement this Act and the *Official Languages Act*;
- (c) include in the section of the plan about this Act, a strategy designed to
  - (i) identify and coordinate activities and measures to be taken for the purpose of Inuit Language revitalization and promotion, particularly targeting communities and age groups for which there are special concerns about language loss or assimilation, and
  - (ii) clarify the roles and responsibilities to be discharged to implement the strategy, including those of government, or any private sector bodies, communities or members of the public;
- (d) include measures in the plan
  - (i) to evaluate and ensure that members of the public service who make or issue communications or deliver services to the public in an Official Language have an acceptable level of oral and written proficiency and skill,
  - (ii) to designate a sufficient number of staff positions in the public service for the discharge of the obligations and duties set out in this Act,
  - (iii) to monitor and evaluate the performance of departments of the Government of Nunavut and of public agencies under this Act and the *Official Languages Act*, including the periodic review or audit of their compliance and effectiveness,
  - (iv) to review the laws of Nunavut and the policies of the Government of Nunavut to ensure their consistency, compliance and effectiveness in implementing and promoting the objectives of this Act and the *Official Languages Act*, and
  - (v) to develop over time, using an approach with reasonable medium and long term goals, the terminology, skills and

human resources required for the wider use of the Inuit Language and fuller performance of duties in relation to the Inuit Language in contexts relating to the laws and administration of justice in Nunavut;

- (e) involve Inuit in the setting of priorities, development and maintenance of the plan, and the monitoring and evaluation of results from the plan, in a manner consistent with Article 32 of the Nunavut Land Claims Agreement; and
- (f) involve the English and French language communities and persons or agencies likely to be impacted by the plan during the setting of priorities, development and maintenance of the plan, and the monitoring and evaluation of results from the plan, as it relates to their specific interests.

Minister may direct

(3) The Minister may direct the administrative head of a department of the Government of Nunavut, a public agency or a municipality to

- (a) submit an annual or longer-term implementation plan to the Minister; and
- (b) provide the information that the Minister considers necessary to exercise the powers or perform the duties under this section.

Same

(4) The Minister may direct that a department of the Government of Nunavut or a public agency shall do all or any of the following:

- (a) provide information, submissions or program-specific expertise to the Inuit Uqausinginnik Taiguusiliuqtiit that the Inuit Uqausinginnik Taiguusiliuqtiit has requested or recommended or that the Minister considers to be appropriate to the exercise of the powers and the performance of the duties of the Inuit Uqausinginnik Taiguusiliuqtiit;
- (b) collaborate with the Inuit Uqausinginnik Taiguusiliuqtiit for the development of competency assessments tailored for
  - (i) all or any part of the public service, or
  - (ii) all or any class or sub-division of teachers or students under the *Education Act*, *Child Day Care Act*, *Public Colleges Act* or other legislation applicable to teachers or students in Nunavut;
- (c) use or require participation in a competency assessment, test or survey developed, recommended or administered by the Inuit Uqausinginnik Taiguusiliuqtiit.

Executive Council oversight

(5) The Executive Council shall

- (a) approve, reject, vary or refer back to the Minister with directions, the plan developed under subsection (2) or any proposed amendment to the plan; and

- (b) receive or require periodic reports from the Minister, or from the administrative head of a department of the Government of Nunavut or a public agency, regarding the performance and implementation of the plan.

Independence affirmed

(6) In exercising the powers and performing the duties under this section, the Minister shall conform to

- (a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and
- (b) the independence, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

Official Languages Promotion Fund

25.1. (1) The Official Languages Promotion Fund is established as a special account in the Consolidated Revenue Fund.

Purposes

- (2) The assets in the fund must be used only to promote the following purposes:
  - (a) recognizing and advancing the equal status, rights and privileges of the Official Languages;
  - (b) empowering linguistic and cultural expression in the Official Languages, using all kinds of media;
  - (c) improving Inuit Language literacy and proficiency and reversing language loss and assimilation;
  - (d) developing or revitalizing the Inuit Language and supporting its ongoing use as a language of education, work and daily life in Nunavut;
  - (e) enhancing public, national and international awareness and understanding of this Act, the *Official Languages Act* and the linguistic and cultural contributions, heritage and aspirations of Nunavummiut;
  - (f) strengthening the vitality of the Francophone and Inuit language communities and creating a positive environment for their cultural expression and collective life in Nunavut.

Credits

- (3) The following must be credited to the fund:
  - (a) money required by court order to be paid into the fund;
  - (b) fines collected under the *Summary Conviction Procedures Act* in relation to any offence under section 33 of this Act;
  - (c) donations, bequests and all other payments directed to the fund;
  - (d) a working capital advance to the fund, payable by the Minister from moneys appropriated by the legislature for the purpose.

Conditional donations

- (4) The Minister may
- (a) accept donations, bequests or payments that are subject to conditions if the conditions are, in the opinion of the Minister, appropriate to the purposes of the fund; or
  - (b) refuse to accept a conditional donation, bequest or payment.

Compliance with conditions

(5) Where the Minister accepts a donation, bequest or payment that is subject to conditions, the Minister is bound to comply with those conditions.

Assignment of authority

(6) The Minister may assign the persons necessary to assist the Minister in the administration of the fund.

Investments

(7) Except as authorized under subsection (9), the Minister shall invest money standing to the credit of the fund in accordance with section 57 of the *Financial Administration Act*.

Interest and income

(8) Interest or income earned by the fund accrues to and becomes part of the fund.

Disbursement

(9) The fund must be disbursed in the manner prescribed.

No deficit

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

Fiscal year

(11) The fiscal year of the fund is same as for the Government of Nunavut.

Accounts

(12) The Minister shall ensure that the following records are maintained separately for the accounts of the fund for each fiscal year:

- (a) complete and accurate financial records of its operations that include the prescribed information;
- (b) any other prescribed records or information.

**(9) Section 27 is repealed and the following substituted:**

Minister's annual report

27. (1) The Minister shall, within 12 months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly and the Languages Commissioner a report that describes

- (a) all the activities, results achieved and use of government resources during the preceding fiscal year in relation to the discharge of obligations under this Act;
- (b) the establishment, operation or performance of policies, programs and services in this regard;
- (c) the number and nature of the reports and recommendations provided by the Inuit Uqausinginnik Taiguusiliuqtiit pursuant to subsection 17(1), the government response in each case and, if a report or recommendation has not been accepted or implemented, an explanation for the government response; and
- (d) the other information that the Minister considers appropriate.

Report to address implementation plan

(2) The comprehensive plan for implementation referred to in paragraph 25(2)(a) must be submitted with the Minister's first annual report, and subsequent annual reports must report and explain subsequent amendments or revisions to and the progress achieved under the implementation plan.

Report to address Official Languages Promotion Fund

(3) The Minister's annual report shall set out an income statement, balance statement and statement of operations of the Official Languages Promotion Fund established by section 25.1.

Tabling report

(4) The Speaker shall cause the annual report to be laid before the Legislative Assembly as soon as is reasonably practicable.

**(10) The following is added after subsection 28:**

Special Languages Commissioner

28.1. (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint a special Languages Commissioner to act in the place of the Languages Commissioner in respect of a matter or application under this Act if

- (a) the Languages Commissioner advises the Management and Services Board that he or she should not act in respect of that particular matter due to a conflict of interest or other reasonable cause; or
- (b) the Legislative Assembly directs or prescribes, or the Nunavut Court of Justice orders that a special Languages Commissioner should be appointed.

Term

(2) A special Languages Commissioner holds office during good behaviour until the conclusion of the matter or application in respect of which he or she has been appointed.



Application to special Languages Commissioner

28.2. Sections 28 and 28.3 to 40 of this Act apply in the same manner and to the same extent to a special Languages Commissioner exercising the powers and performing the duties of his or her office under this Act, as to the Languages Commissioner.

Immunity from proceedings

28.3. (1) No legal action or proceeding may be brought against the Languages Commissioner, or against a person acting on behalf or under the direction of the Languages Commissioner 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 Languages Commissioner.

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 documents and things produced in the course of an investigation, mediation or other proceeding before the Languages Commissioner are privileged to the same extent as if it were a proceeding in court; and
- (b) a report made by the Languages Commissioner 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 Languages Commissioner were the order of a court.

Languages Commissioner's annual report

28.4. (1) The Languages Commissioner shall, within 12 months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly an annual report of the conduct of the office and the discharge of the duties of the Languages Commissioner under this Act during the preceding year, including

- (a) the appointment and activities of an acting or special Languages Commissioner during the preceding fiscal year;
- (b) a description of the number and type of applications and requests made under this Act, the status or resolution of the applications or requests that were active during the preceding fiscal year and information about any instances where recommendations made by the Languages Commissioner after an investigation were not followed; and
- (c) an assessment of the effectiveness of the enforcement powers exercised and duties performed by the Languages Commissioner, with any recommended changes that the Languages Commissioner considers necessary or desirable to improve compliance with this Act.

Tabling annual report

(2) The Speaker shall cause the annual report to be laid before the Legislative Assembly as soon as is reasonably practicable.

**(11) Subsections 31(4) and (5) are repealed.**

**(12) The following is added after section 33:**

Investigation - Territorial Institution

Application concerning territorial institution

33.1. (1) On receipt of an application or request made regarding the administration of a territorial institution, the Languages Commissioner shall investigate in accordance with this section, sections 33.2 to 33.7 and 38 to 42.

Combining investigations

(2) The Languages Commissioner may conduct a single investigation of two or more applications or requests, if he or she is satisfied that it is fair and reasonable in the circumstances to do so.

Notice

(3) On commencing an investigation, the Languages Commissioner shall provide a notice of the investigation to the territorial institution whose communications with or services to the public or other conduct are of concern.

Refuse or discontinue investigation

33.2. (1) The Languages Commissioner may refuse to investigate or may discontinue an investigation if, in the opinion of the Languages Commissioner, any of the following situations exist:

- (a) the concerns identified primarily affect an individual or individuals other than the applicant or party requesting an investigation, and the directly affected individual or individuals do not wish to proceed;
- (b) all or part of the concerns identified in the application or request may be dealt with and remedied, adequately and appropriately, under another Act or using another available procedure;
- (c) the application or request is frivolous, vexatious, not made in good faith or concerns a trivial matter;
- (d) the applicant or party requesting an investigation has withdrawn or abandoned the application or request;
- (e) the concerns identified in the application or request have been resolved.

Considerations

(2) Before making a determination under subsection (1), the Languages Commissioner shall consider all relevant circumstances, including the possibility that a directly affected individual, an applicant or a party who requested the investigation may be reluctant to proceed or that an application or request may have been withdrawn, abandoned or represented as having been resolved because of an abuse or imbalance of power.

### Inform affected persons

(3) If the Languages Commissioner refuses to investigate or discontinues an investigation under subsection (1), the Languages Commissioner shall

- (a) inform the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and
- (b) provide a written confirmation to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate
  - (i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (1), and
  - (ii) the date when the information required by paragraph (a) was provided.

### Notice and consultation

33.3. (1) If the Languages Commissioner decides to investigate, the Languages Commissioner shall,

- (a) before commencing the investigation,
  - (i) notify the Minister, the administrative head of the territorial institution affected and any other person the Languages Commissioner considers appropriate to notify in the circumstances, and
  - (ii) consult with the administrative head of the territorial institution affected and with any other person the Languages Commissioner considers appropriate, to attempt to resolve the concerns raised or for any other purpose; and
- (b) before making a report or recommendation that may adversely affect a person or territorial institution, consult with that person or territorial institution.

### No hearing as of right

(2) The Languages Commissioner is not required to hold a hearing and no person is entitled to be heard by the Languages Commissioner except as provided in this Act.

### Investigation powers and procedure

33.4. (1) Except as provided in this section, the Languages Commissioner may, during an investigation, request and obtain information from the persons and in the manner the Languages Commissioner considers appropriate, and may take one or more of the following actions without being bound by the rules of evidence or proceedings in civil cases:

- (a) enter and inspect premises occupied by a territorial institution at any reasonable time;
- (b) make the inquiries while in those premises that Languages Commissioner considers appropriate, including talking in private with any individual on a voluntary basis;

- (c) request and examine information, records and objects, make or require copies or take photographs that the Languages Commissioner considers relevant to the concerns under investigation;
- (d) accept or exclude any information or evidence as the Languages Commissioner considers appropriate, whether or not it would be admissible or excluded in a civil case.

#### Summons and disclosure

(2) Subject to giving reasonable notice, the Languages Commissioner may in the course of an investigation

- (a) summon and enforce the appearance of a person as a witness;
- (b) administer oaths and affirmations;
- (c) compel a person to give evidence on oath or affirmation, including by way of an affidavit, at a time and place the Languages Commissioner specifies; and
- (d) compel a person to produce documents and things in the person's possession or control that the Languages Commissioner considers relevant to the concerns under investigation, at a time and place the Languages Commissioner specifies.

#### Other powers

(3) In exercising the powers under subsections (1) and (2), the Languages Commissioner has the same powers and duties as are vested in a court of law in civil cases.

#### Limitation

(4) The exercise of the Languages Commissioner's powers under this section is limited by and shall conform to

- (a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and
- (b) the independence, duties, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

#### Protocol

(5) The Languages Commissioner shall establish and adhere to a protocol with the Speaker of the Legislative Assembly on behalf of the Legislative Assembly and its members, and with the Nunavut Court of Justice and the Court of Appeal, regarding the Languages Commissioner's exercise of powers and performance of duties under this section.

#### Procedure after investigation

33.5. (1) If, after carrying out an investigation, the Languages Commissioner is of the opinion that a matter should be referred to a territorial institution for consideration or action, the Languages Commissioner shall prepare and submit a report of that opinion and the reasons for it to the Minister and to the administrative head of the territorial institution in question.

Copy to Premier and Minister

(2) If the territorial institution referred to in subsection (1) is a department of the Government of Nunavut or a public agency, the Languages Commissioner shall submit a copy of his or her report and reasons to the Premier and to the Minister responsible for the department or public agency.

Report and reply

(3) In a report under subsection (1), the Languages Commissioner may make the recommendations that he or she considers appropriate, and may request that the administrative head of the territorial institution in question reply to the recommendations of the Languages Commissioner within a specified time indicating

- (a) the action that has been or is proposed to be taken to give effect to the recommendations; and
- (b) if no action has been or is proposed to be taken, the reasons for not following that recommendation.

Investigation report to Legislative Assembly

33.6. (1) If no action is taken that the Languages Commissioner considers adequate or appropriate within a reasonable time after a report is submitted under subsection 33.5 (1) or (2), the Languages Commissioner may prepare and submit an investigation report to the Speaker of the Legislative Assembly.

Tabling investigation report

(2) The Speaker shall cause the investigation report to be laid before the Legislative Assembly as soon as is reasonably practicable.

Inform affected persons

33.7. The Languages Commissioner shall in every case

- (a) at a time and in a manner that the Languages Commissioner considers appropriate and consistent with section 38, inform the applicant or party who requested the investigation, and such other affected persons as the Languages Commissioner considers appropriate, of the result of the investigation, the recommendations made and the actions taken or proposed; and
- (b) confirm in writing to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate
  - (i) that the Languages Commissioner has concluded the investigation, and
  - (ii) the date when the information required by paragraph (a) was provided.

**(13) Subsection 34(1) and the heading preceding it are repealed and the following substituted:**

## Investigation - Other Organization

### Application concerning other organization

34. (1) On receipt of an application or request made regarding the administration of an organization that is not a territorial institution, the Languages Commissioner shall evaluate the concerns and proceed in accordance with this section and sections 35 to 42.

### Reasonable grounds to investigate

(1.1) If, after initial review of the application, the Languages Commissioner is satisfied that there are reasonable grounds to investigate, the Languages Commissioner shall investigate.

**(14) The part of subsection 37(1) preceding (a) and the headings preceding it are repealed and the following substituted:**

### Powers of the Languages Commissioner if concern substantiated

37. (1) If, after carrying out an investigation regarding the administration of an organization that is not a territorial institution, the Languages Commissioner considers that a concern under investigation is substantiated, the Languages Commissioner may

**(15) Section 43 is repealed and the following substituted:**

### Review after five years

43. (1) After every five years of operation, commencing with a first review in the sixth year after assent to this Act, or such earlier time as the Legislative Assembly may direct, the Legislative Assembly or a committee of the Legislative Assembly shall review the provisions and operation of this Act, and such other legislation, policies, guidelines, plans or directives as the Legislative Assembly or committee of the Legislative Assembly may direct.

### Scope of review

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

### Inuit Uqausinginnik Taiguusiliuqtiit

(3) A review under subsection (1) shall include a review of the status of the Inuit Uqausinginnik Taiguusiliuqtiit, and whether or not administrative independence is necessary for its work.

**(16) Paragraphs 44(1)(a) to (a.2) are repealed and the following substituted:**

- (a) designating the administrative head of a public agency referred to in the definition "administrative head" in subsection 1(1);
- (a.1) under subsection 1(1), identifying by class, condition or circumstance the situations in which a private sector body to which this Act would otherwise apply is or may be exempted;

- (a.2) excluding a public agency under subsection 1(1), where the public agency is established for purposes relating primarily to the heritage, cultural expression, strengthening or promotion of a single language or language community;
- (a.3) under paragraph 1(2)(c), respecting the circumstances or instances in which both Inuinnaqtun and Inuktitut must be used under this or any other Act;
- (a.4) under subsection 3(1) as it applies to private sector bodies, in respect of a specified place, class, condition or circumstance,
  - (i) detail an obligation set out in section 3,
  - (ii) vary an obligation set out in section 3 and substitute a less onerous or different requirement for communication or services in the Inuit Language, or
  - (iii) waive an obligation set out in section 3;

**(17) The following is added after paragraph 44(1)(f):**

- (g.1) respecting any matter the Commissioner in Executive Council considers necessary to implement or effect compliance with this Act under section 25, including additional matters to be addressed in the comprehensive plan for implementation referred to in subsection 25(2) or the implementation plans and information referred to in subsection 25(3);
- (g.2) respecting the disbursement of and the records and information to be separately maintained in respect of the Official Languages Promotion Fund established by section 25.1;

**(18) The following is added after clause 44.1:**

Consultation register

44.2. (1) The Minister shall establish and maintain, in accordance with the regulations, a register of persons or organizations to be consulted in relation to

- (a) section 44; or
- (b) other consultation or collaborative work required by this Act on the part of the Minister or Government of Nunavut.

Use of register

(2) The Minister shall consult with every person or organization duly entered in the register.

Public access

(3) A person may inspect the register by attending at the prescribed office during regular government business hours and requesting that the register be produced for inspection.

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