

CONSOLIDATION OF ENVIRONMENTAL PROTECTION ACT
R.S.N.W.T. 1988,c.E-7

(Current to: July 24, 2013)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.75(Supp.)

In force February 15, 1991: SI-001-91

R.S.N.W.T. 1988,c.117(Supp.)

In force September 1, 1991, except s.10.1-10.8,10.9(1)-10.9(3): SI-011-91

s.10.1-10.8,10.9(1)-10.9(3) in force January 1, 1998: SI-015-97

S.N.W.T. 1995,c.11

S.N.W.T. 1998,c.21

In force December 19, 1998: SI-018-98

S.N.W.T. 1998,c.24

AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:

S.N.W.T. 1998,c.34

In force April 1, 1999

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2003,c.26,s.250

s.250 in force July 9, 2005: SI-001-2005

S.Nu. 2010,c.3,s.3

s.3 in force March 23, 2010

S.Nu. 2010,c.4,s.20

s.20 in force March 23, 2010

S.Nu. 2011,c.10,s.5

s.5 in force March 10, 2011

S.Nu. 2011,c.11,s.1

s.1 in force March 10, 2011

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

Territorial Printer
Legislation Division
Department of Justice
Government of Nunavut
P.O. Box 1000, Station 550
Iqaluit, NU X0A 0H0

Tel.: (867) 975-6305
Fax: (867) 975-6189
Email: Territorial.Printer@gov.nu.ca

GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

TABLE OF CONTENTS**INTERPRETATION**

Definitions	1
-------------	---

APPLICATION

Binding on Government	1.1
Application	2 (1)
Non-application	(2)
Agreements	2.1 (1)
<i>Idem</i>	(2)
Powers of Minister	2.2
Committees	2.3 (1)
Appointment and term	(2)
Functions	(3)
Powers of board	(4)
Enforcement of powers	(5)
Publication of notice	(6)
Public inquiry	2.4 (1)
Appointment	(2)
<i>Public Inquiries Act</i>	(3)

ADMINISTRATION

Chief Environmental Protection Officer	3 (1)
Powers and duties of inspectors	(2)
Powers of Chief Environmental Protection Officer	(3)
Delegation	3.1
<i>Idem</i>	3.2
Experts and technical advisers to Chief Environmental Protection Officer	3.3
Peace officers	3.4 (1)
<i>Ex officio</i> inspectors	(2)
Certificate of identification	3.5

ENVIRONMENTAL PROTECTION

Protection order	4 (1)
<i>Idem</i>	(2)

DISCHARGE OF CONTAMINANTS

Discharge of contaminants	5 (1)
Repealed	(2)

Exceptions		(3)
Exception does not apply		(4)
Environmental emergency	5.1	
Order of inspector	6	(1)
Repealed		(2)
Effect of order		(3)
Order to remedy or repair damage	7	(1)
Measures where failure to comply with order		(2)
Repealed		(3)
Service of order	8	
Emergency order	8.1	(1)
Order effective when issued		(2)
Effect of verbal order		(3)
Service in written form		(4)

UNSIGHTLY LAND

Application	9	
Meaning of unsightly land	9.1	
Unsightly land	9.2	
Order to improve condition of land	9.3	(1)
Improvement of condition of land by Chief Environmental Protection Officer		(2)
Limitation		(3)

BY-LAWS

By-laws	10	
---------	----	--

PERMITS AND LICENCES

Controller of Licensing	10.1	(1)
Restrictions		(2)
Terms and conditions		(3)
Experts and technical advisers to Controller of Licensing		(4)
Fees	10.2	(1)
Form		(2)
Transfer	10.3	
Amendment	10.4	
Publication of notice	10.5	(1)
Proof of publication		(2)
Comments by interested persons		(3)

Suspension

Non-payment of fees	10.6	(1)
Period of suspension		(2)
Violation	10.7	(1)
Restriction on suspension		(2)
Suspension ceases		(3)

Right to Written Reasons

Written reasons	10.8	(1)
Service		(2)

Right to Appeal

Right to appeal refusal	10.9	(1)
Right to appeal conditions		(2)
Right to appeal suspension		(3)
Right to appeal order		(4)
Stay	10.10	(1)
No stay		(2)
Contents of notice	10.11	
Powers of Minister	10.12	(1)
<i>Idem</i>		(2)
Time for decision		(3)
Service of reasons		(4)
Decision of Minister final	10.13	(1)
Appeal on law or jurisdiction		(2)
Time for appeal		(3)

POWERS OF INSPECTORS

Trespass	11	(1)
No liability for trespass		(2)
Liability		(3)
Application		(4)

VOLUNTARY REPORTING

Definitions	11.1	(1)
Voluntary information		(2)
Agreement is not a bar to an order		(3)
Person may not be prosecuted		(4)
Exception		(5)
Prosecution		(6)
False information, documents, or statements		(7)

OFFENCES AND PUNISHMENT

Offences and punishment	12	(1)
<i>Idem</i>		(2)
Offence and punishment	12.1	
Orders of judge	12.2	
Variation of order	12.3	(1)
Notice		(2)
Limitation		(3)
Repealed	12.4	
Continuing offences	13	(1)
Further prosecutions		(2)
Where prosecutions not barred		(3)
Proof of offence	14	
Liability of directors	14.1	(1)
<i>Idem</i>		(2)
Defence	14.2	
Limitation	15	
Order is proof	15.1	

OTHER REMEDIES

Injunction	15.2	(1)
Notice		(2)

Recovery of Costs and Expenses

Costs and expenses	16	(1)
Joint and several liability		(2)
Liability for costs		(3)
Procedure		(4)
Repealed	16.1	

Records

Request for records	17	(1)
Duty to comply		(2)

Inspection

Inspection	18	(1)
Request driver to stop		(2)
Duty to comply		(3)
Powers under inspection	19	(1)
Duty of person in possession or charge		(2)

Destruction of contaminant	20	(1)
Liability for costs		(2)

Search

Search warrant	21	(1)
Search and seizure		(2)
Warrant not required	22	
Force	23	
Operation of equipment	24	(1)
Duty of person in possession or charge		(2)
Assistance to inspectors	25	

Seizure

Seizure	26	(1)
Limitation		(2)
Notice of seizure		(3)
Release from seizure	27	
Application to extend period of detention	28	(1)
Notice		(2)
Order of extension granted		(3)
Order of extension refused		(4)
Order for restoration		(5)
Storage of seized thing	29	(1)
Removal		(2)
<i>Idem</i>		(3)
Interference with seized thing	30	(1)
Examination of seized thing		(2)

Forfeiture

Forfeiture on consent	31	(1)
Disposal or destruction		(2)
Liability for costs		(3)
Forfeiture by order of court	32	
Liability for thing seized	33	

REGULATIONS

Regulations	34	(1)
Publication of proposed regulation		(2)
Exceptions		(3)

ENVIRONMENTAL PROTECTION ACT

INTERPRETATION

Definitions

1. In this Act,

"Chief Environmental Protection Officer" means the Chief Environmental Protection Officer appointed under subsection 3(1); (*directeur de la protection de l'environnement*)

"contaminant" means any noise, heat, vibration or substance and includes such other substance as the Minister may prescribe that, where discharged into the environment,

- (a) endangers the health, safety or welfare of persons,
 - (b) interferes or is likely to interfere with normal enjoyment of life or property,
 - (c) endangers the health of animal life, or
 - (d) causes or is likely to cause damage to plant life or to property;
- (*contaminant*)

"Controller of Licensing" means the Controller of Licensing appointed under subsection 10.1(1); (*Contrôleur des permis et des licences*)

"discharge" includes, but not so as to limit the meaning, any pumping, pouring, throwing, dumping, emitting, burning, spraying, spreading, leaking, spilling or escaping; (*rejet*)

"endanger" includes contributing to the endangerment of, or likely to endanger; (*mettre en danger*)

"environment" means the components of the Earth and includes

- (a) air, land and water,
- (b) all layers of the atmosphere,
- (c) all organic and inorganic matter and living organisms, and
- (d) the interacting natural systems that include components referred to in paragraphs (a) to (c); (*environnement*)

"inspector" means a person appointed under subsection 3(2); (*inspecteur*)

"judge" means a judge of the Nunavut Court of Justice and, unless the context indicates otherwise, includes a justice of the peace; (*juge*)

"licence" means a licence issued under section 10.1; (*licence*)

"permit" means a permit issued under section 10.1; (*permis*)

"person" includes the successor, assignee, receiver, purchaser or agent of a corporation;
(*personne*)

"substance" means any solid, liquid, gas, odour or organism or combination of any of them. (*substance*)

R.S.N.W.T. 1988,c.75(Supp.),s.2; R.S.N.W.T. 1988,c.117(Supp.),s.2;
S.N.W.T. 1998,c.24,s.9; S.N.W.T. 1998,c.21,s.6(2); S.N.W.T. 1998,c.34,Sch.C,s.9;
S.Nu. 2010,c.3,s.3(2); S.Nu. 2010,c.4,s.20(2).

APPLICATION

Binding on Government

1.1. This Act and the regulations bind the Government of Nunavut.
R.S.N.W.T. 1988,c.75(Supp.),s.3; S.Nu. 2010,c.3,s.3(3).

Application

2. (1) This Act applies to the whole of Nunavut.

Non-application

(2) This Act does not apply to any person who is authorized under an Act of the Parliament of Canada or Nunavut to do those things that, but for such Act, are in contravention of this Act or the regulations. R.S.N.W.T. 1988,c.117(Supp.),s.3;
S.Nu. 2010,c.3,s.3(3).

Agreements

2.1. (1) The Minister may enter into agreements with a province or a territory, or with any person, institution, organization or firm respecting the administration and enforcement of

- (a) this Act and the regulations; or
- (b) any Act or regulation of a province or a territory relating to the preservation, protection or enhancement of the environment.

Idem

(2) The Minister and the Commissioner may enter into agreements with the Government of Canada respecting the administration and enforcement of

- (a) this Act and the regulations; or
- (b) any Act or regulation of the Government of Canada relating to the preservation, protection or enhancement of the environment.

R.S.N.W.T. 1988,c.117(Supp.),s.4; S.Nu. 2010,c.3,s.3(3).

Powers of Minister

2.2. The Minister may

- (a) establish, operate and maintain stations to monitor the quality of the environment in Nunavut;

- (b) conduct research studies, conferences and training programs relating to contaminants and to the preservation, protection or enhancement of the environment;
- (c) develop, co-ordinate and administer policies, standards, guidelines and codes of practice relating to the preservation, protection or enhancement of the environment;
- (d) collect, publish and distribute information relating to contaminants and to the preservation, protection or enhancement of the environment;
- (e) compile and study information directly or indirectly related to matters pertaining to the preservation, protection or enhancement of the environment for the purpose of using the results to exercise his or her powers under this Act; and
- (f) upon written request of a party to a dispute involving a matter arising under this Act, appoint a mediator, establish the term of office, remuneration and terms of reference of the mediator to mediate the dispute.

R.S.N.W.T. 1988,c.117(Supp.),s.4; S.Nu. 2010,c.3,s.3(3).

Committees

2.3. (1) The Minister may establish boards, committees or other bodies to provide advice relating to the preservation, protection or enhancement of the environment.

Appointment and term

- (2) Where the Minister establishes a body under subsection (1), the Minister may
- (a) appoint the members;
 - (b) establish the term of office of the members;
 - (c) designate a chairperson, vice-chairperson and secretary for the body;
 - (d) provide for the remuneration of the members of the body for their services and allowances for travelling and other expenses; and
 - (e) authorize the body to hire and establish remuneration for experts.

Functions

(3) The Minister shall specify the functions that the body is to perform and the manner in which the functions are to be performed.

Powers of board

(4) Where the Minister establishes a board, the board has the powers, rights and privileges of a judge of the Nunavut Court of Justice for the trial of a civil action with regard to the

- (a) attendance, swearing and examination of witnesses;
- (b) the production and inspection of records and documents; and
- (c) the production and examination of evidence.

Enforcement of powers

(5) Where a person appearing before a board refuses to comply with a requirement of the board under subsection (4), the board may, by its own application or as a party to a proceeding, apply to the Nunavut Court of Justice for an order compelling compliance with the requirement of the board.

Publication of notice

(6) Where the Minister establishes a board, the Minister shall publish a notice in the *Nunavut Gazette* indicating the membership of the board, the functions the board is to perform and the manner in which the functions are to be performed.

R.S.N.W.T. 1988,c.117(Supp.),s.4; S.N.W.T. 1995,c.11,s.18; S.Nu. 2010,c.3,s.3(3).

Public inquiry

2.4. (1) The Minister may direct that a public inquiry be held where a discharge of a contaminant has resulted in

- (a) injury or death to any person;
- (b) danger or potential danger to the health or safety of the public; or
- (c) significant damage to property or the environment.

Appointment

(2) The Minister may appoint persons to conduct the inquiry.

Public Inquiries Act

(3) The provisions of the *Public Inquiries Act* apply to the inquiry held under subsection (1). R.S.N.W.T. 1988,c.117(Supp.),s.4; S.Nu. 2010,c.4,s.20(3).

ADMINISTRATION

Chief Environmental Protection Officer

3. (1) The Minister shall appoint a Chief Environmental Protection Officer who shall administer and enforce this Act and the regulations.

Powers and duties of inspectors

(2) The Chief Environmental Protection Officer may appoint inspectors and shall specify in the appointment the powers that may be exercised and the duties that may be performed by the inspector under this Act and the regulations.

Powers of Chief Environmental Protection Officer

(3) The Chief Environmental Protection Officer may exercise any of the powers or perform any of the duties of an inspector. R.S.N.W.T. 1988,c.75(Supp.),s.4; R.S.N.W.T. 1988,c.117(Supp.),s.5.

Delegation

3.1. The Minister may delegate, in writing, any of his or her powers and duties, except the powers set out in sections 2.1, 2.3, 2.4, 10.12 and 34 and paragraph 2.2(f), to the Chief Environmental Protection Officer. R.S.N.W.T. 1988,c.117(Supp.),s.6.

Idem

3.2. The Chief Environmental Protection Officer may delegate to any other person any of his or her powers or duties, other than powers or duties delegated to the Chief Environmental Protection Officer by the Minister. R.S.N.W.T. 1988,c.117(Supp.),s.6.

Experts and technical advisers to Chief Environmental Protection Officer

3.3. The Chief Environmental Protection Officer may engage the services of experts or persons having special technical or other knowledge to advise the Chief Environmental Protection Officer or to inquire into and report to the Chief Environmental Protection Officer on matters within the jurisdiction of the Chief Environmental Protection Officer. R.S.N.W.T. 1988,c.117(Supp.),s.6.

Peace officers

3.4. (1) For the purposes of enforcing the provisions of this Act and the regulations, every inspector is a peace officer.

Ex officio inspector

(2) Every member of the Royal Canadian Mounted Police and every conservation officer appointed under the *Wildlife Act* is an inspector by virtue of his or her office. R.S.N.W.T. 1988,c.117(Supp.),s.6; S.Nu. 2003,c.26,s.250.

Certificate of identification

3.5. Every inspector, other than an inspector described in subsection 3.4(2), shall be provided with a certificate of identification in a form approved by the Chief Environmental Protection Officer, and, on entering any place or vehicle under this Act, shall produce the certificate, if requested to do so by the owner or person in charge. R.S.N.W.T. 1988,c.117(Supp.),s.6; S.Nu. 2010,c.4,s.20(3); S.Nu. 2011,c.10,s.5.

ENVIRONMENTAL PROTECTION

Protection order

4. (1) Where the Chief Environmental Protection Officer is of the opinion, based on reasonable grounds, that it is necessary or advisable for the protection of the environment to do so, the Chief Environmental Protection Officer may, by order directed to any person, require that person

- (a) to install safeguards to prevent the discharge of contaminants into the environment;
- (b) to site, transport or store any contaminant in the manner set out in the order; or
- (c) to have on hand at all times the equipment and material necessary to alleviate the effect of any discharge of contaminants that may be specified in the order.

Idem

(2) Where an inspector believes on reasonable grounds that a discharge of a contaminant in contravention of this Act, the regulations or a provision of a permit or licence is likely to occur, the inspector may issue an order requiring any person whose actions may increase the likelihood of a discharge or the owner or person in charge, management or control of the contaminant to take the preventive measures that the inspector considers necessary. R.S.N.W.T. 1988,c.117(Supp.),s.7.

DISCHARGE OF CONTAMINANTS

Discharge of contaminants

5. (1) Subject to subsection (3), no person shall discharge or permit the discharge of a contaminant into the environment.

(2) **Repealed, R.S.N.W.T. 1988,c.117(Supp.),s.8.**

Exceptions

(3) Subsection (1) does not apply where the person who discharged the contaminant or permitted the discharge of the contaminant establishes that

- (a) the discharge is authorized by this Act or the regulations or by an order issued under this Act or the regulations;
- (b) the contaminant has been used solely for domestic purposes and was discharged from within a dwelling-house;
- (c) the contaminant was discharged from the exhaust system of a vehicle;
- (d) the discharge of the contaminant resulted from the burning of leaves, foliage, wood, crops or stubble for domestic or agricultural purposes;
- (e) the discharge of the contaminant resulted from burning for land clearing or land grading;
- (f) the discharge of the contaminant resulted from a fire set by a public official for habitat management or silviculture purposes;
- (g) the contaminant was discharged for the purposes of combatting a forest fire;
- (h) the contaminant is a soil particle or grit discharged in the course of agriculture or horticulture; or
- (i) the contaminant is a pesticide classified and labelled as "domestic" under the *Pest Control Products Regulations* (Canada).

Exception does not apply

(4) The exceptions set out in subsection (3) do not apply where a person discharges a contaminant that the inspector has reasonable grounds to believe is not usually associated with a discharge from the excepted activity.

R.S.N.W.T. 1988,c.75(Supp.),s.5; R.S.N.W.T. 1988,c.117(Supp.),s.8;

S.N.W.T. 1995,c.11,s.18.

Environmental emergency

5.1. Where a discharge of a contaminant into the environment in contravention of this Act or the regulations or the provisions of a permit or licence issued under this Act or the regulations occurs or a reasonable likelihood of such a discharge exists, every person causing or contributing to the discharge or increasing the likelihood of such a discharge, and the owner or the person in charge, management or control of the contaminant before its discharge or likely discharge, shall immediately

- (a) subject to any regulations, report the discharge or likely discharge to the person or office designated by the regulations;
- (b) take all reasonable measures consistent with public safety to stop the discharge, repair any damage caused by the discharge and prevent or eliminate any danger to life, health, property or the environment that results or may be reasonably expected to result from the discharge or likely discharge; and
- (c) make a reasonable effort to notify every member of the public who may be adversely affected by the discharge or likely discharge.

R.S.N.W.T. 1988,c.75(Supp.),s.5;

R.S.N.W.T. 1988,c.117(Supp.),s.9.

Order of inspector

6. (1) Where an inspector believes on reasonable grounds that a discharge of a contaminant in contravention of this Act or the regulations or a provision of a permit or licence issued under this Act or the regulations has occurred or is occurring, the inspector may issue an order requiring any person causing or contributing to the discharge or the owner or the person in charge, management or control of the contaminant to stop the discharge by the date named in the order.

(2) **Repealed, R.S.N.W.T. 1988,c.117(Supp.),s.10.**

Effect of order

(3) The issue of an order under this section does not preclude the prosecution of an offence under paragraph 12(1)(a). R.S.N.W.T. 1988,c.75(Supp.),s.5;
R.S.N.W.T. 1988,c.117(Supp.),s.10.

Order to remedy or repair damage

7. (1) Despite section 6, where a person discharges or permits the discharge of a contaminant into the environment, an inspector may order that person to repair or remedy any injury or damage to the environment that results from the discharge.

Measures where failure to comply with order

(2) Where a person fails or neglects to repair or remedy any injury or damage to the environment in accordance with an order made under subsection (1) or where immediate remedial measures are required to protect the environment, the Chief Environmental Protection Officer may cause to be carried out the measures that he or she considers necessary to repair or remedy an injury or damage to the environment that results from any discharge.

(3) Repealed, R.S.N.W.T. 1988,c.117(Supp.),s.11.
R.S.N.W.T. 1988,c.117(Supp.),s.11; S.Nu. 2010,c.4,s.20(3).

Service of order

8. An order referred to in section 4 or 6 or subsection 7(1) or 9.3(1) shall be served by personal delivery to the person to be notified or by sending the order by registered mail addressed to the person at his or her last known address, or where the person is a corporation, addressed to the registered office of the corporation in Nunavut.
R.S.N.W.T. 1988,c.117(Supp.),s.12; S.Nu. 2010,c.3,s.3(3).

Emergency order

8.1. (1) Despite section 8, where, in the opinion of an inspector, an emergency exists and an order must be issued under section 4 or 6 or subsection 7(1), the inspector may issue a verbal or written order to the person who, in the opinion of the inspector, is the person best able to comply with the order.

Order effective when issued

(2) An order issued under subsection (1) takes effect from the time it is issued.

Effect of verbal order

(3) A verbal order issued under subsection (1) has the same force and effect as a written order.

Service in written form

(4) An order issued under subsection (1) shall be served in written form in accordance with section 8 as soon as is practicable after it is issued.
R.S.N.W.T. 1988,c.117(Supp.),s.13; S.Nu. 2010,c.4,s.20(3).

UNSIGHTLY LAND

Application

9. Sections 9.1, 9.2 and 9.3 do not apply to land within a municipality.
R.S.N.W.T. 1988,c.117(Supp.),s.14.

Meaning of unsightly land

9.1. Land is unsightly where an inspector believes, on reasonable grounds and on comparison with land used for a similar purpose, that litter or things placed on the land cause the land to be unsightly. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Unsightly land

9.2. No owner or occupier of land shall allow that land to become unsightly.
R.S.N.W.T. 1988,c.117(Supp.),s.14.

Order to improve condition of land

9.3. (1) Where an inspector believes on reasonable grounds that any land is unsightly, the Chief Environmental Protection Officer may issue a written order to the owner of the land or the last person to own or occupy the land to improve the condition of the land in such manner and to such extent as may be set out in the order.

Improvement of condition of land by Chief Environmental Protection Officer

(2) Where a person fails to comply with an order under subsection (1), the Chief Environmental Protection Officer may take such action as he or she considers necessary to improve the condition of the land in accordance with the order.

Limitation

(3) No order may be made under subsection (1) to a person who is the last person to own or occupy land that is unsightly more than five years after that person ceased to own or occupy the land. R.S.N.W.T. 1988,c.117(Supp.),s.14.

BY-LAWS

By-laws

10. The council of a municipal corporation may, by by-law,
(a) prohibit or regulate the disposal of litter on public or private land;
or
(b) define unsightly land, prohibit owners or occupiers of land from allowing that land to become unsightly and provide for the improvement of unsightly land.
R.S.N.W.T. 1988,c.117(Supp.),s.14.

PERMITS AND LICENCES

Controller of Licensing

10.1. (1) The Minister shall appoint a Controller of Licensing who shall, in accordance with the regulations, issue permits and licences.

Restrictions

(2) Every permit or licence is subject to this Act and the regulations and to the terms and conditions that apply to the permit or licence.

Terms and conditions

(3) The Controller of Licensing may attach any terms or conditions to the permit or licence that he or she considers appropriate at the time of issuance of the permit or licence.

Experts and technical advisers to Controller of Licensing

(4) The Controller of Licensing may engage the services of experts or persons having technical or other knowledge to advise the Controller of Licensing or to inquire

into and report to the Controller of Licensing on matters within the jurisdiction of the Controller of Licensing. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Fees

10.2. (1) An application for a permit or licence must be accompanied by the prescribed fee.

Form

(2) A permit, licence, application and report issued or prepared under this Act or the regulations must be in the prescribed form. R.S.N.W.T. 1988,c.117(Supp.),s.14; S.Nu. 2010,c.4,s.20(3).

Transfer

10.3. Except with the written consent of the Controller of Licensing, a permit or licence and the rights or privileges carried by a permit or licence may not be assigned or transferred. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Amendment

10.4. The holder of a permit or licence may apply to the Controller of Licensing for an amendment of the permit or licence. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Publication of notice

10.5. (1) An applicant for a permit or licence or an amendment to a permit or licence shall publish notice of the application in the prescribed manner.

Proof of publication

(2) An applicant shall provide proof of publication of the notice to the Controller of Licensing in accordance with the regulations.

Comments by interested persons

(3) Where a notice is published, interested persons may provide written comments to the Controller of Licensing within the time provided in the notice. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Suspension

Non-payment of fees

10.6. (1) The Controller of Licensing may, seven days after serving a notice in accordance with section 8, suspend a permit or licence where fees or charges in respect of the permit or licence are owing and have remained unpaid for 30 days.

Period of suspension

(2) The Controller of Licensing may suspend a permit or licence referred to in subsection (1) until he or she receives the fees or charges that are owing. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Violation

10.7. (1) Where the Controller of Licensing believes on reasonable grounds that the person holding the permit or licence or the employees or agents of the person have violated a provision of this Act, the regulations or a provision of a permit or licence, the Controller of Licensing may, three days after serving a notice in accordance with section 8, suspend a permit or licence for such period as he or she thinks reasonable.

Restriction on suspension

(2) Where a judge refrains from suspending or cancelling the permit or licence of a person who is found guilty of an offence under this Act or regulations, the Controller of Licensing shall not suspend the permit or licence of that person in respect of that violation.

Suspension ceases

(3) Where the Controller of Licensing suspends the permit or licence of a person for a violation of a provision of this Act or the regulations or a provision of a permit or licence and a judge acquits the person of the charge of violating that provision, the suspension of the permit or licence ceases. R.S.N.W.T. 1988,c.117(Supp.),s.14; S.Nu. 2010,c.3,s.3(3).

Right to Written Reasons

Written reasons

10.8. (1) Where the Controller of Licensing refuses to issue a permit or licence or suspends a permit or licence, the Controller of Licensing shall provide written reasons for the refusal or suspension to the applicant or to the permit or licence holder as the case may be.

Service

(2) The Controller of Licensing shall serve, in accordance with section 8, notice of the refusal or suspension under subsection (1) and written reasons for the refusal or suspension. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Right to Appeal

Right to appeal refusal

10.9. (1) A person whose application for a permit or licence is refused may, within 30 days of receiving notice of the refusal, send a notice of appeal from that decision to the Minister.

Right to appeal conditions

(2) A person whose permit or licence has been issued subject to conditions may, within 30 days of receiving the permit or licence, send a notice of appeal of the conditions to the Minister.

Right to appeal suspension

(3) A person whose permit or licence has been suspended may, within 30 days of receiving notice of the suspension, send a notice of appeal of the suspension to the Minister.

Right to appeal order

(4) Within 30 days of the issuance of an order under this Act, a person may send a notice to the Minister to appeal for relief from the order.

R.S.N.W.T. 1988,c.117(Supp.),s.14; S.Nu. 2010,c.3,s.3(3).

Stay

10.10. (1) An appeal of an order made under section 4 or 9.3 acts as a stay of the operation of the order appealed.

No stay

(2) An appeal of an order made under section 6 or subsection 7(1) does not act as a stay of the operation of the order appealed. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Contents of notice

10.11. A notice of appeal sent under this Act shall contain all of the grounds for appeal by the applicant. R.S.N.W.T. 1988,c.117(Supp.),s.14.

Powers of Minister

10.12. (1) The Minister may engage the services of experts or take such other reasonable actions as he or she considers necessary to obtain the information the Minister requires to make a decision on an appeal.

Idem

(2) In addition to any action taken under subsection (1), the Minister may require the appellant to provide such further information as the Minister considers necessary and the appellant shall provide the information.

Time for decision

(3) Within 60 days of receiving a notice of appeal under this Act, the Minister shall

- (a) make a decision on the appeal; or
- (b) serve the appellant, in accordance with section 8, with a notice extending the time period within which he or she must make a decision on the appeal.

Service of reasons

(4) Within 14 days of making a decision on an appeal, the Minister shall serve the appellant, in accordance with section 8, with written reasons.

R.S.N.W.T. 1988,c.117(Supp.),s.14.

Decision of Minister final

10.13. (1) Subject to subsection (2), the decision of the Minister is final.

Appeal on law or jurisdiction

(2) An appeal from a decision of the Minister lies to the Nunavut Court of Justice on a question of law or jurisdiction.

Time for appeal

(3) An appeal under subsection (2) must be made within 15 days of service under subsection 10.12(4). R.S.N.W.T. 1988,c.117(Supp.),s.14; S.Nu. 2010,c.3,s.3(3).

POWERS OF INSPECTORS

Trespass

11. (1) Subject to subsection (3), an inspector, acting in the exercise of a duty or in the performance of a power under this Act may enter and pass over any public or private land without being liable for trespass.

No liability for trespass

(2) A person who is subject to an order may enter and pass over any public or private land without being liable for trespass when the trespass is necessary for compliance with the order.

Liability

(3) An inspector or other person referred to in subsections (1) and (2) who enters and passes over land under the authority of that subsection is liable for damages to the land resulting from his or her activities.

Application

(4) Subsections (1) and (3) apply to any person who is assisting an inspector. R.S.N.W.T. 1988,c.117(Supp.),s.15.

VOLUNTARY REPORTING

Definitions

11.1. (1) In this section,

"environmental audit" means an independent assessment of

- (a) a person's compliance with this Act, the regulations, guidelines or environmental standards,
- (b) a person's environmental plans, policies, practices, controls and records, and
- (c) the extent to which a person's environmental plans, policies and controls have been implemented; (*contrôle environnemental*)

"environmental site assessment" means an independent assessment of a site or the operations on a site to

- (a) determine whether the environment is or may be subject to contamination,
- (b) establish the extent of any contamination,
- (c) identify the causes of any contamination and identify anything that may cause contamination in the future,
- (d) identify ways to repair or remedy any injury or damage to the environment resulting from contamination, and
- (e) identify ways to prevent future contamination. (*évaluation environnementale d'un site*)

Voluntary information

(2) Where a person voluntarily provides the Chief Environmental Protection Officer with detailed information which that person has obtained through an environmental audit or an environmental site assessment about that person's non-compliance with this Act, the regulations, guidelines or environmental standards, the Chief Environmental Protection Officer may

- (a) negotiate and enter into an agreement with that person to address any injury or damage to the environment or any other circumstances arising from the non-compliance; or
- (b) issue an order under section 4 or 6 or subsection 7(1).

Agreement is not a bar to an order

(3) For greater certainty, the fact that the Chief Environmental Protection Officer has negotiated or entered into an agreement with a person under paragraph (2)(a) does not operate as a bar to the Chief Environmental Protection Officer making an order under section 4 or 6 or subsection 7(1).

Person may not be prosecuted

(4) A person who voluntarily provides the Chief Environmental Protection Officer with information under subsection (2) about that person's non-compliance with this Act or the regulations shall not be prosecuted for the non-compliance if the person complies with

- (a) the terms of an agreement subsequently entered into by the Chief Environmental Protection Officer and the person under paragraph (2)(a), where an agreement has been entered into and an order has not been made as referred to in paragraph (2)(b);
- (b) an order issued under section 4 or 6 or subsection 7(1), where an order has been made and an agreement has not been entered into under paragraph (2)(a); or
- (c) the terms of an agreement referred to in paragraph (a) and an order referred to in paragraph (b), where an agreement has been entered into and an order has been made.

Exception

- (5) Subsection (4) does not apply where
- (a) the Chief Environmental Protection Officer, prior to receiving the information from the person under subsection (2), had received or obtained information that gave the Chief Environmental Protection Officer reason to believe that the person was not complying with this Act or the regulations; or
 - (b) the person does not provide the Chief Environmental Protection Officer with all information relevant to the non-compliance
 - (i) that is in the person's possession at the time an agreement is entered into or an order is made as referred to in subsection (2), or
 - (ii) that comes into the person's possession during the time an agreement or order is in effect.

Prosecution

(6) The fact that an agreement was entered into under paragraph (2)(a) does not preclude the prosecution of the person who is a party to the agreement in respect of matters not covered by the agreement.

False information, documents, or statements

(7) No person shall knowingly provide false information or documents or make false statements to the Chief Environmental Protection Officer or an inspector respecting the person's compliance or non-compliance with this Act or the regulations.
S.N.W.T. 1998,c.21,s.6(3).

OFFENCES AND PUNISHMENT**Offences and punishment**

- 12.** (1) Every person who
- (a) contravenes section 5, or
 - (b) fails to comply with an order made under section 6 or subsection 7(1),
- is guilty of an offence punishable on summary conviction and is liable
- (c) for a first offence, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months or to both, and
 - (d) for each subsequent offence, to a fine not exceeding \$1,000,000 or to imprisonment for a term of less than two years or to both.

Idem

- (2) Every person who fails to comply with the terms of
- (a) an order made under section 4, or
 - (b) an order given under section 9.3,
- is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding six months or to both.
R.S.N.W.T. 1988,c.75(Supp.),s.6,7; R.S.N.W.T. 1988,c.117(Supp.),s.16.

Offence and punishment

12.1. Every person who contravenes a provision of this Act or the regulations or a provision of a permit or licence issued under this Act or the regulations, other than a provision referred to in section 12, is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding six months or to both. R.S.N.W.T. 1988,c.75(Supp.),s.8; R.S.N.W.T. 1988,c.117(Supp.),s.17.

Orders of judge

12.2. Where a person has been convicted of an offence under this Act, in addition to any other punishment that may be imposed under this Act, the judge may make an order with one or more of the following terms:

- (a) prohibiting the person from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
- (b) directing the person to take any action that the judge considers appropriate to remedy any harm to the environment that results or may result from the act or omission that constituted the offence;
- (c) directing the person to take any action that the judge considers appropriate to avoid any harm to the environment that may result from the act or omission that constituted the offence;
- (d) directing the person to publish, in the manner determined by the judge, the facts relating to the offence;
- (e) directing the person to notify, at his or her own cost and in a specified manner, any person aggrieved or affected by the person's conduct of the facts relating to the offence;
- (f) directing the person to post a bond or pay an amount of money into judge that will ensure compliance with any order made under this section;
- (g) cancelling or suspending any permit or licence issued under this Act or other regulations;
- (g.1) directing the person to pay the cost of any research or analysis related to the prosecution of the offence;
- (g.2) any further terms the judge considers appropriate in the circumstances; and
- (h) requiring the offender to comply with any other reasonable conditions that the judge considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the offence or committing other offences under this Act.

R.S.N.W.T. 1988,c.75(Supp.),s.8;

R.S.N.W.T. 1988,c.117(Supp.),s.18; S.Nu. 2010,c.3,s.3(3).

Variation of order

12.3. (1) Subject to subsection (2), where a judge makes an order under section 12.2, on application for review by the prosecutor, the Chief Environmental Protection Officer or the person who is the subject of the order, the judge may require that person to appear before the judge and, after hearing the evidence, the judge may

- (a) make changes in the order or the conditions specified in the order or extend the period for which the order is to remain in force for a period, not exceeding one year, that the judge considers desirable; or
- (b) decrease the period for which the order is to remain in force or relieve the offender, either absolutely or partially or for a period that the judge considers desirable, from having to comply with any condition that is specified in the order.

Notice

(2) Before making an order under subsection (1), the judge may direct that notice be given to the persons whom the judge considers to be interested persons and the judge may hear any such person.

Limitation

(3) Where an application made under subsection (1) has been heard by the judge, no other application under that subsection may be made with respect to that person except with leave of the judge. R.S.N.W.T. 1988,c.75(Supp.),s.8; R.S.N.W.T. 1988,c.117(Supp.),s.19; S.Nu. 2010,c.3,s.3(3).

12.4. Repealed, R.S.N.W.T. 1988,c.117(Supp.),s.20.

Continuing offences

13. (1) Every contravention of this Act or failure to comply with the terms of an order or notice made or given under this Act is a continuing offence and a separate information may be laid for each day the offence continues, and the punishment provided for in section 12 or 12.1, as the case may be, applies for each conviction resulting from the laying of each information.

Further prosecutions

(2) The conviction of a person for an offence under this Act does not operate as a bar to further prosecution for the continued neglect or failure on his or her part to comply with this Act or any order or notice made or given under this Act.

Where prosecution not barred

(3) Nothing in section 4, 6, 8.1, 9.3 or subsection 7(1) operates as a bar to a prosecution for contravening section 5 or 5.1. R.S.N.W.T. 1988,c.117(Supp.),s.21.

Proof of offence

14. In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not

the employee or agent is identified or has been prosecuted for the offence.
R.S.N.W.T. 1988,c.117(Supp.),s.22; S.Nu. 2010,c.3,s.3(3).

Liability of directors

14.1. (1) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and is guilty of the offence.

Idem

(2) An officer, director or agent of a corporation is liable to conviction under this section whether or not the corporation has been prosecuted for or convicted of the offence. R.S.N.W.T. 1988,c.75(Supp.),s.9.

Defence

14.2. No person shall be found guilty of an offence under this Act or the regulations if the person establishes that he or she exercised all due diligence to prevent its commission. R.S.N.W.T. 1988,c.75(Supp.),s.9.

Limitation

15. Proceedings in respect of an offence under this Act may be instituted at any time within three years after the day on which the Chief Environmental Protection Officer became aware or ought to have become aware of the subject-matter of the proceedings. R.S.N.W.T. 1988,c.117(Supp.),s.23.

Order is proof

15.1. An order purporting to be signed by the Chief Environmental Protection Officer or an inspector, or a certified copy of the order, is admissible in evidence in an action, prosecution or other proceeding and, in the absence of evidence to the contrary, the document is proof of the statements contained in it without proof of the signature or of the official character of the person appearing to have signed it.
R.S.N.W.T. 1988,c.117(Supp.),s.24.

OTHER REMEDIES

Injunction

15.2. (1) Where, on the application of the Minister, it appears to a judge of the Nunavut Court of Justice that a person has done or is about to do or is likely to do any act or thing constituting or directed toward the commission of an offence under this Act, the judge may issue an injunction ordering any person named in the application

- (a) to refrain from doing any act or thing that it appears to the judge may constitute or be directed toward the commission of an offence under this Act; or
- (b) to do any act or thing that it appears to the judge may prevent the commission of an offence under this Act.

Notice

(2) No injunction shall be issued under subsection (1) unless the party or parties named in the application have been served in accordance with section 8 with 48 hours notice or the urgency of the situation is such that service of notice would not be in the public interest. R.S.N.W.T. 1988,c.117(Supp.),s.24; S.Nu. 2010,c.3,s.3(3).

Recovery of Costs and Expenses

Costs and expenses

16. (1) The Government of Nunavut may claim and recover the reasonable costs and expenses incurred in taking any measures under this Act from every person who, through his or her actions or negligence or the actions or negligence of others for whom he or she is by law responsible, caused, permitted or contributed to the discharge of a contaminant or otherwise contravened the provisions of this Act or the regulations.

Joint and several liability

(2) Where the Government of Nunavut may claim and recover costs and expenses from two or more persons under subsection (1), the costs and expenses may be recovered jointly and severally from those persons.

Liability for costs

(3) Where a person fails to comply with an order issued under this Act, that person is liable for all costs and expenses incurred as a result of any action taken under this Act to carry out the order.

Procedure

(4) A claim for costs and expenses under this Act may be sued for and recovered with costs as a debt due to the Government of Nunavut.
R.S.N.W.T. 1988,c.117(Supp.),s.25; S.Nu. 2010,c.3,s.3(3).

16.1. Repealed, R.S.N.W.T. 1988,c.117(Supp.),s.26.

Records

Request for records

17. (1) The Chief Environmental Protection Officer may, in writing, require that, within a specific time, any records that are required to be maintained for the purposes of this Act or the regulations be provided to the Chief Environmental Protection Officer by the owner or person who is required to maintain records.

Duty to comply

(2) A person who receives a written request under subsection (1) shall comply with the request. R.S.N.W.T. 1988,c.117(Supp.),s.27.

Inspection

Inspection

18. (1) For the purposes of determining whether there is compliance with this Act or the regulations or a provision of a permit or licence, an inspector may, at any reasonable time, without a warrant, enter and inspect any place or vehicle, other than a dwelling-house, where the inspector believes on reasonable grounds that

- (a) a contaminant is located on or in the place or vehicle; or
- (b) any books, records, electronic data or other documents relevant to the administration of this Act can be found in the place or vehicle.

Request driver to stop

(2) An inspector may, for the purposes of an inspection under subsection (1), stop a vehicle and direct the driver to park the vehicle at a place specified by the inspector.

Duty to comply

(3) Where, under subsection (2) an inspector directs the driver of a vehicle to stop, the driver shall

- (a) immediately park the vehicle at the place specified by the inspector; and
- (b) not move the vehicle until permitted to do so by the inspector.
R.S.N.W.T. 1988,c.117(Supp.),s.27.

Powers under inspection

19. (1) An inspector may, in the performance of an inspection under subsection 18(1),

- (a) examine any substance;
- (b) open and examine any receptacle or package that the inspector has reason to believe contains any contaminant;
- (c) examine any books, records, electronic data or documents that the inspector believes on reasonable grounds contain any information required by the inspector and make copies of them or take extracts from them;
- (d) take samples of any thing; and
- (e) conduct any tests or take any measurements.

Duty of person in possession or charge

(2) Every person who is in possession or charge of any place or vehicle being inspected under subsection 18(1) shall permit the inspector

- (a) to use or cause to be used any computer system at the place or vehicle; and
- (b) to use or cause to be used any copying equipment at the place.
R.S.N.W.T. 1988,c.117(Supp.),s.27.

Destruction of contaminant

20. (1) An inspector may destroy or otherwise dispose of a contaminant in any manner that is appropriate

- (a) if, in the performance of an inspection under subsection 18(1), he or she believes on reasonable grounds that the contaminant is a danger to life, health, property or the environment and has been abandoned or has deteriorated; or
- (b) with the written consent of the owner or person in charge, management or control of the contaminant.

Liability for costs

(2) The owner of or person in charge of a contaminant is liable for all reasonable costs and expenses incurred as a result of an inspector destroying or disposing of the contaminant under subsection (1). R.S.N.W.T. 1988,c.117(Supp.),s.27.

Search

Search warrant

21. (1) On *ex parte* application, a judge may issue a warrant authorizing such inspectors or peace officers, as the judge may specify in the warrant, to enter and search a place or vehicle, subject to such conditions as the judge may specify in the warrant, where the judge is satisfied by information on oath that there are reasonable grounds to believe that there is in the place or vehicle

- (a) anything in respect of which any contravention of this Act, the regulations or a provision of a permit or licence has been or is suspected to have been committed; or
- (b) anything that there are reasonable grounds to believe will afford evidence with respect to the commission of any contravention of this Act, the regulations or a provision of a permit or licence.

Search and seizure

(2) An inspector or peace officer to whom a warrant is issued under subsection (1) may exercise the powers described in subsection 19(1).
R.S.N.W.T. 1988,c.117(Supp.),s.27; S.Nu. 2010,c.3,s.3(3).

Warrant not required

22. Where an inspector on reasonable grounds believes that there is in any place or vehicle anything referred to in paragraph 21(1)(a) or (b), but by reason of exigent circumstances it would not be practicable to obtain a warrant under subsection 21(1), the inspector may search that place or vehicle without a warrant.
R.S.N.W.T. 1988,c.117(Supp.),s.27.

Force

23. An inspector making a search under section 21 or 22 may use such force as, in the opinion of the inspector, is necessary to facilitate the search, including the breaking of any lock or fastening. R.S.N.W.T. 1988,c.117(Supp.),s.27.

Operation of equipment

24. (1) An inspector making a search of a place or vehicle under section 21 or 22 may

- (a) use or cause to be used any computer system at the place or vehicle; and
- (b) use or cause to be used any copying equipment at the place.

Duty of person in possession or charge

(2) Every person who is in possession or charge of any place or vehicle in respect of which a search is carried out under section 21 or 22 shall permit the inspector carrying out the search

- (a) to use or cause to be used any computer system at the place or vehicle; and
 - (b) to use or cause to be used any copying equipment at the place.
- R.S.N.W.T. 1988,c.117(Supp.),s.27.

Assistance to inspectors

25. The owner or the person in charge of a place or vehicle entered by an inspector under section 18, 21 or 22 and every person found in the place or vehicle shall

- (a) give the inspector all reasonable assistance to enable the inspector to carry out his or her duties under this Act and the regulations; and
- (b) furnish the inspector with such information as, in the opinion of the inspector, is necessary for the enforcement of this Act and the regulations.

R.S.N.W.T. 1988,c.117(Supp.),s.27; S.Nu. 2010,c.3,s.3(3);
S.Nu. 2010,c.4,s.20(3).

Seizure

Seizure

26. (1) Where, during the course of an inspection or a search, an inspector has reasonable grounds to believe that any provision of this Act, the regulations or the provision of a permit or licence has been contravened, the inspector may seize any thing

- (a) by means of or in relation to which the inspector reasonably believes the contravention occurred; or
- (b) that the inspector reasonably believes will afford evidence of the contravention.

Limitation

(2) An inspector shall not seize any thing under subsection (1) unless it is required as evidence or for purposes of analysis or the inspector has reasonable grounds to believe that the seizure is necessary in the public interest.

Notice of seizure

(3) An inspector who has seized a thing under subsection (1) shall, as soon as practicable and in writing, advise the person in whose possession it was at the time of seizure

- (a) of the seizure of the thing; and

- (b) of the provision of this Act, the regulations or a provision of a permit or licence that the inspector believes has been contravened.
R.S.N.W.T. 1988,c.117(Supp.),s.27.

Release from seizure

27. The Chief Environmental Protection Officer shall release from seizure any thing seized under subsection 26(1)

- (a) on application to the Chief Environmental Protection Officer by the owner of the thing or the person in whose possession it was at the time of seizure and the Chief Environmental Protection Officer is satisfied that it is not in the public interest to continue to detain the thing or that it is not required as evidence or for purposes of analysis; or
 - (b) 180 days after the day of seizure, unless before that time
 - (i) the thing has been forfeited under section 31,
 - (ii) proceedings have been instituted in respect of the contravention in relation to which the thing was seized, in which case it may be detained until the proceedings are concluded, or
 - (iii) the Chief Environmental Protection Officer has served or made reasonable efforts to serve notice of an application for an order extending the time during which the thing may be detained in accordance with section 28.
- R.S.N.W.T. 1988,c.117(Supp.),s.27.

Application to extend period of detention

28. (1) Where proceedings have not been instituted in respect of the contravention in relation to which a thing was seized under subsection 26(1), the Chief Environmental Protection Officer may, before the expiration of 180 days after the day of seizure and on serving notice in accordance with subsection (2) on the owner of the thing or on the person who at the time of seizure was in charge, management or control of it, apply to a judge for an order extending the time during which it may be detained.

Notice

(2) A notice referred to in subsection (1) shall be served in accordance with section 8 at least 10 days prior to the date the application is to be heard and shall specify

- (a) the judge in which the application is to be made;
- (b) the place where and the time at which the application is to be heard;
- (c) the thing seized in respect of which the application is to be made; and
- (d) the grounds on which the Chief Environmental Protection Officer intends to rely to show why there should be an extension of the time during which the thing seized may be detained.

Order of extension granted

(3) Where, on the hearing of an application made under subsection (1), the judge is satisfied that the thing seized should continue to be detained, the judge shall order

- (a) that the thing be detained for such additional period of time and on such conditions as the judge considers proper; and
- (b) that the thing be released from seizure at the expiration of the additional period of time unless before that time action is taken under subparagraph 27(b)(ii) or (iii).

Order of extension refused

(4) Where, on the hearing of an application made under subsection (1), the judge is not satisfied that the thing seized should continue to be detained, the judge shall order that, on the expiration of 180 days after the day of seizure, it be released unless, before the expiration of the 180 days, action is taken under subparagraph 27(b)(ii) or (iii).

Order for restoration

(5) Where, at the time of the hearing of an application made under subsection (1), 180 days have expired after the day of seizure, the judge shall order the release of the thing. R.S.N.W.T. 1988,c.117(Supp.),s.27; S.Nu. 2010,c.3,s.3(3).

Storage of seized thing

29. (1) A thing seized by an inspector under subsection 26(1) shall be kept or stored in the place where it was seized except where it is removed in accordance with subsection (2) or (3).

Removal

(2) The inspector may remove a thing seized where, in the opinion of the inspector,

- (a) it is not in the public interest to keep or store a thing seized in the place it was seized; or
- (b) the thing seized, or a sample of it, is required as evidence and removal and storage of the thing seized is necessary to ensure that the thing or sample will be available as evidence in any related proceedings.

Idem

(3) Where the person who had possession of the thing at the time of seizure or the person entitled to possession of the place where the thing was seized requests the inspector to have it removed to some other place, the thing may be removed and stored in any other place at the direction of an inspector at the expense of the person who requested the removal. R.S.N.W.T. 1988,c.117(Supp.),s.27.

Interference with seized thing

30. (1) Unless authorized by an inspector, no person shall remove, alter or interfere in any way with any thing seized by an inspector under subsection 26(1).

Examination of seized thing

(2) An inspector shall, at the request of the person from whom a thing was seized, allow that person or any person authorized by that person to examine it and, where practicable, furnish a sample or copy of it to such person.

R.S.N.W.T. 1988,c.117(Supp.),s.27.

Forfeiture

Forfeiture on consent

31. (1) A thing seized by an inspector under subsection 26(1) is forfeited to the Government of Nunavut where the owner or person in whose possession it was at the time of seizure consents in writing to the forfeiture of the thing.

Disposal or destruction

(2) The Minister may dispose of or destroy any thing forfeited under subsection (1).

Liability for costs

(3) If the Minister so directs, the owner or the person who was in lawful possession of the thing at the time it was seized is liable for all reasonable costs and expenses incurred as a result of the disposal or destruction of the thing seized.

R.S.N.W.T. 1988,c.117(Supp.),s.27; S.Nu. 2010,c.3,s.3(3).

Forfeiture by order of court

32. Where a person is convicted of an offence under this Act or the regulations and any thing seized under subsection 26(1) or in relation to that offence is being detained,

- (a) the thing is, if the judge so directs, forfeited to the Government of Nunavut in which case
 - (i) the Minister may dispose of or destroy the thing, and
 - (ii) the offender is liable for all reasonable costs of the disposal or destruction; or
- (b) the thing shall, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings, as the case may be, be restored to the person from whom it was seized or to any other person entitled to possession of it on such conditions, if any, as may be imposed by order of the judge and as, in the opinion of the judge, are necessary to avoid the commission of any further offence under this Act or the regulations.

R.S.N.W.T. 1988,c.117(Supp.),s.27; S.Nu. 2010,c.3,s.3(3).

Liability for thing seized

33. No right of action lies and no right of compensation exists against the Government of Nunavut, the Commissioner, the Minister, the Chief Environmental Protection Officer or an inspector or a person acting under the authority of any of them for loss or damage arising from the disposal authorized by this Act or the deterioration of any thing during any period when it is under seizure unless the Government Nunavut or

any such person was negligent in the care of the thing seized.
R.S.N.W.T. 1988,c.117(Supp.),s.27; S.Nu. 2010,c.3,s.3(3).

REGULATIONS

Regulations

34. (1) Subject to subsection (2), the Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing any matter that may be prescribed under this Act;
- (b) respecting contaminants or the concentration of contaminants that may or may not be discharged into the environment;
- (c) respecting the maximum permissible concentration of a contaminant in the environment;
- (d) respecting acceptable levels of contaminants within other substances;
- (e) respecting the reporting of discharges of contaminants or the likely discharge of contaminants;
- (f) respecting the methods for sampling and analyzing contaminants;
- (g) respecting the methods for sampling and analyzing the rate of emission of a contaminant into the environment;
- (h) respecting the manufacture, use, installation, removal or modification of equipment designed to control the release of contaminants;
- (i) categorizing contaminants;
- (j) respecting the design, construction, identification, siting and operation of disposal sites for contaminants;
- (k) respecting the requirements for the identification, storage, handling, discharge, transport or use of contaminants;
- (l) respecting methods of collection, treatment, distribution, recycling, reuse or disposal of contaminants;
- (l.1) respecting standards for environmental audits and environmental site assessments referred to in section 11.1;
- (l.2) respecting procedures for entering into agreements under paragraph 11.1(2)(a), and the contents of those agreements;
- (m) creating classes of permits and licences;
- (n) respecting the requirements for the application, issuing, refusal and suspension of permits and licences and public participation relating to this subject matter;
- (o) respecting procedures relating to appeals and public participation relating to appeals;
- (p) respecting the measures required and the standards to be met for the remedy or repair of any injury or damage to the environment;
- (q) respecting the material and equipment required to be on hand to alleviate the effect of any discharge of contaminants;
- (r) respecting the safeguards required to prevent the discharge of contaminants;

- (s) prescribing the contents of forms to be used under this Act;
- (t) prescribing fees to be charged under this Act; and
- (u) respecting any other matter necessary to carry out the purposes and provisions of this Act.

Publication of proposed regulation

(2) Subject to subsection (3), the Minister shall publish in the *Nunavut Gazette* at least 90 days before the proposed effective date of a regulation, a copy of every regulation that the Commissioner proposes to make under paragraphs 34(1)(m), (n) and (o) and a reasonable opportunity shall be afforded to interested persons to make representations with respect thereto.

Exceptions

(3) The Minister is not required to publish a proposed regulation if the proposed regulation

- (a) has been published pursuant to subsection (2) whether or not it has been amended as a result of representations made by interested persons as provided in that subsection; or
- (b) makes no material substantive change in an existing regulation.
R.S.N.W.T. 1988,c.117(Supp.),s.27; S.N.W.T. 1998,c.21,s.6(4);
S.Nu. 2010,c.3,s.3(3).