

# OFFICIAL CONSOLIDATION OF TOBACCO AND SMOKING ACT

C.S.Nu.,c.T-40

In force May 31, 2023, except s.28: R-008-2023

s.28 in force April 1, 2024

*(Consolidation date: May 31, 2023)*

The following provision have been deleted for the purposes of this consolidation:  
s.50 to 55 (Related Amendments, Consequential Amendments, Coordinating Amendments, and Repeal)

## **S.Nu. 2021,c.20**

### **AS AMENDED BY NUNAVUT STATUTES**

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The authoritative text of original and revised 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 [www.nunavutlegislation.ca](http://www.nunavutlegislation.ca).

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## 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. <i>(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.)</i>
SI-013-2017	means the instrument registered as SI-013-2017 in 2017. <i>(Note: This is a Nunavut statutory instrument made on or after January 1, 2000.)</i>

### *Citation of Acts*

R.S.N.W.T. 1988,c.D-22	means Chapter D-22 of the <i>Revised Statutes of the Northwest Territories, 1988</i> .
R.S.N.W.T. 1988,c.10(Supp.)	means Chapter 10 of the Supplement to the <i>Revised Statutes of the Northwest Territories, 1988</i> . <i>(Note: The Supplement is in three volumes.)</i>
S.N.W.T. 1996,c.26	means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
S.Nu. 2011,c.15	means Chapter 15 of the 2011 Annual Volume of the Statutes of Nunavut.

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## Schedule

## TOBACCO AND SMOKING ACT

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

### Purpose

1. The purposes of this Act are to
  - (a) protect Nunavummiut from second-hand smoke;
  - (b) prevent minors from accessing and using tobacco or smoking products;
  - (c) reduce the visibility of tobacco and smoking products; and
  - (d) reduce the usage of tobacco and smoking products.

### Definitions

2. (1) In this Act,

"accessory" means, subject to subsection (2),

- (a) any item designed to be used in association with smoking, including rolling papers or wraps, rolling machines, tubes, filters, clips, holders, pipes, water pipes, storage containers or cases,
- (b) any item designed to be used in association with the consumption of tobacco,
- (c) an item prescribed by regulation, or
- (d) the components of an item described in paragraphs (a) to (c);  
(*accessoire*)

"adult" and "minor", for greater certainty, have the same meaning as in the *Age of Majority Act*; (« *adulte* » et « *mineur* »)

"cannabis" and "cannabis accessory" have the same meaning as in the *Cannabis Act*; (*cannabis*)

"contravene", for greater certainty, includes fail to comply with; (*contrevenir*)

"dwelling" means a dwelling-house as defined in section 2 of the *Criminal Code*; (*lieu d'habitation*)

"electronic cigarette" means a vaporizer or inhalant-type device, whether called an electronic cigarette or any other name, containing a power source and heating element designed to heat a substance and produce smoke or vapour intended to be inhaled; (*cigarette électronique*)

"employee" means a person who performs any work for or supplies any service to an employer, or a person who receives any instruction or training in the activity, business, work, trade, occupation or profession of an employer, and includes a volunteer and a person who is self-employed, and "employment" has a corresponding meaning; (*employé*)

"employer" means any person who, as the owner, proprietor, manager, contractor, superintendent, supervisor or overseer of any activity, business, work, trade, occupation, or profession, has control over or direction of, or is directly or indirectly responsible for the employment of, an employee; (*employeur*)



"enforcement officer" means

- (a) an enforcement officer appointed under section 26, or
- (b) a public officer or law enforcement officer of a class that is prescribed by regulation, subject to any restrictions provided for in the regulation;  
(*agent d'exécution*)

"herbal shisha" means a substance containing natural herbs intended to be smoked but does not include tobacco or cannabis; (*chicha à base d'herbes*)

"liquor" has the same meaning as in the *Liquor Act*; (*boisson alcoolisée*)

"proprietor" means the person who ultimately controls, governs or directs the activity carried on within a place and includes the person actually in charge of the premises at any particular time and, with respect to a workplace, includes the employer; (*gestionnaire*)

"provide" includes sell, give or offer; (*fournir*)

"public conveyance" means any vehicle, boat or other conveyance, or a part of it, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry; (*moyen de transport public*)

"public structure" means any building or other structure, or a part of it, whether covered by a roof or not, to which the public has access as of right or by invitation, expressed or implied, whether or not a fee is charged for entry, but does not include a street, road or highways;  
(*construction publique*)

"restaurant or bar" means an establishment engaged in the preparation, sale and service of food or drink, or both food and drink, to the public or to members or guests of a private club for consumption on the premises or in an adjacent outside area; (*restaurant ou bar*)

"retailer" means a person who sells tobacco or smoking products at retail; (*détaillant*)

"sale", in relation to tobacco and smoking products, means the supply or distribution of tobacco and smoking products for money or other consideration, including by way of exchange, barter, or traffic of tobacco or smoking products, and also includes the offering for sale or possession for the purpose of selling tobacco or smoking products; (*vente*)

"school" means a school as defined in the *Education Act* or a private school registered under section 202 of that Act; (*école*)

"shisha shop" means a physical retail establishment selling herbal shisha that does not admit minors and complies with the requirements of section 19; (*magasin de chicha*)

"smoke" means to smoke, inhale or exhale vapour from, burn, carry, hold or otherwise have control over a lit or heated cigarette, cigar, pipe, water pipe, electronic cigarette or other device that burns or heats tobacco, cannabis, herbal shisha or another substance that is intended to be smoked or inhaled; (*fumer*)

"smoking product" means

- (a) a vapour product,
- (b) herbal shisha,
- (c) any other substance that is intended to be smoked, other than
  - (i) tobacco,
  - (ii) cannabis,
  - (iii) a food, drug or device to which the *Food and Drugs Act* (Canada) applies, or
  - (iv) a substance prescribed by regulation, or
- (d) an accessory; (*produit destiné aux fumeurs*)

"tobacco"

- (a) includes tobacco in any processed or unprocessed form that may be smoked, inhaled, chewed or consumed in any other manner,
- (b) for greater certainty, includes extracts from tobacco leaves,
- (c) includes a product that contains tobacco, but
- (d) does not include a food, drug or device containing nicotine to which the *Food and Drugs Act* (Canada) applies; (*tabac*)

"tobacconist" means a physical retail establishment selling tobacco that does not admit minors and complies with the requirements of section 19; (*magasin de tabac*)

"vape shop" means a physical retail establishment selling vapour products that does not admit minors and complies with the requirements of section 19; (*magasin de vapotage*)

"vapour product" means an electronic cigarette, a component of an electronic cigarette, or a substance manufactured or sold to be used in an electronic cigarette, but does not include

- (a) tobacco or herbal shisha,
- (b) subject to the regulations, a food, drug or device to which the *Food and Drugs Act* (Canada) applies, or
- (c) cannabis or a cannabis accessory; (*produit de vapotage*)

"warrant" includes a telewarrant issued on information submitted by telephone or other means of telecommunication in the manner provided for in section 487.1 of the *Criminal Code*, with any modifications that the circumstances require; (*mandat*)

"water pipe" means smoking equipment, whether called a water pipe or any other name, containing a water reservoir and designed to heat a substance and produce smoke or vapour intended to be inhaled; (*pipe à eau*)

"workplace" means a building or other structure or a vehicle, boat or other conveyance, or part of one, in which one or more employees work, including any other area utilized by employees. (*lieu de travail*)

Not accessories

(2) The following items are not included in the definition of "accessory":

- (a) a lighter, matches or another item used to produce a flame;
- (b) a device to which the *Food and Drugs Act* (Canada) applies;
- (c) an item prescribed by regulation.

### Forfeiture

- (3) The following are "forfeitable" for the purposes of this Act:
- (a) tobacco or smoking products in a vending machine;
  - (b) cash in a vending machine that contains tobacco or smoking products;
  - (c) tobacco or smoking products found or seized in a prohibited place as defined in section 45, other than those referred to in subsection 45(10);
  - (d) an advertisement or promotional item that is prohibited by this Act or was found or seized in a place where it is prohibited under this Act;
  - (e) tobacco or smoking products that
    - (i) are prohibited to be sold under this Act, and
    - (ii) were found or seized while being sold or kept for the purpose of sale, other than sale for the purpose of delivery outside Nunavut.

### Government bound

- (4) This Act binds the Government of Nunavut.

### Conflict

**3.** If a provision of this Act or the regulations is inconsistent with or in conflict with a provision of another enactment or a municipal by-law, the provision that has the most restrictive effect on use, advertisement or sale prevails.

### Provision to minors

#### Providing to a minor

- 4.** (1) A person shall not provide tobacco or a smoking product to a minor.

#### Verification of age – sale

- (2) A retailer or their employee shall request proof of age from
- (a) every person attempting to purchase tobacco or a smoking product in person who appears to be under 25 years of age; and
  - (b) every person attempting to enter a tobacconist, vape shop or shisha shop who appears to be under 25 years of age.

#### Instruction – verification of age on delivery

- (3) A person does not contravene subsection (1) if they send tobacco or a smoking product to a minor if the person
- (a) informed the person delivering the product of its nature and of the prohibition on its delivery to a minor; and
  - (b) instructed the person delivering the product to verify age in accordance with subsection (4).

#### Verification of age – delivery

(4) A person who is knowingly delivering, or should reasonably know they are delivering, a smoking product to a person who appears to be under 25 years of age shall request proof of age from the person.

**No proof of age**

(5) If a person does not provide a proof of age prescribed by regulation when requested to do so under subsection (2) or (4), or provides proof of age which indicates the person is a minor, the person making the request

- (a) shall not sell or deliver tobacco or smoking products to the person; and
- (b) in the case of a tobacconist, vape shop or shisha shop, shall demand that the person leave the premises immediately.

**Comply with demand**

(6) A person shall comply with a demand made to them under paragraph (5)(b).

**False identification**

(7) A person shall not provide false identification when requested proof of age under subsection (2) or (4).

**Providing false identification**

(8) A person shall not knowingly provide a minor with false identification for the purpose of purchasing or receiving tobacco or a smoking product or to enter a tobacconist, vape shop or shisha shop.

**Defence**

(9) Subsection (1) does not apply if the person providing tobacco or smoking products

- (a) verified that a proof of age prescribed by regulation indicated that the purchaser or recipient was an adult; and
- (b) there was no apparent reason to doubt the authenticity of the proof of age.

**Exception – employment of minors**

(10) Subject to paragraph 19(1)(c), a cultivator, producer, manufacturer, seller or other provider of tobacco or smoking products may employ a minor in the sale or other trade of tobacco and smoking products, and this section does not apply to providing or delivering tobacco or smoking products to the minor in the course of such employment.

**Policies, practices and procedures**

- 5.** (1) A retailer shall, in accordance with the regulations,
- (a) have written policies, practices and procedures to discourage and prevent the selling of tobacco and smoking products to minors;
  - (b) provide training and education to employees respecting this Act, the regulations, and the retailer's written policies, practices and procedures; and
  - (c) establish a monitoring mechanism to enable the retailer
    - (i) to determine whether the employees are complying with this Act, the regulations and the retailer's written policies, practices and procedures, and
    - (ii) to identify circumstances that may affect an employee's ability to comply with this Act, the regulations and the retailer's written policies, practices and procedures.

## Records

(2) A retailer shall, in accordance with the regulations, keep records of all steps taken under subsection (1).

## Prohibited sales

### Flavoured tobacco and vapour products

6. (1) A person shall not sell tobacco or a vapour product that
- (a) contains an ingredient or combination of ingredients that imparts a distinguishing aroma or flavour, including that of a spice or herb, but not including that of tobacco;
  - (b) contains an ingredient or combination of ingredients prescribed by regulation as a flavouring agent;
  - (c) is represented as being flavoured, other than by the flavour of tobacco;
  - (d) is presented by its packaging, by advertisement or otherwise as being flavoured, other than by the flavour of tobacco; or
  - (e) is presented by its packaging, by advertisement or otherwise as having a particular flavour, or type of flavour, of tobacco.

### Flavoured herbal shisha

- (2) A person shall not sell herbal shisha that
- (a) contains tobacco or nicotine;
  - (b) contains an ingredient or combination of ingredients, other than a natural herb, that imparts a distinguishing aroma or flavour;
  - (c) contains an ingredient or combination of ingredients prescribed by regulation as a shisha flavouring agent;
  - (d) is represented as being flavoured, other than by a natural herb; or
  - (e) is presented by its packaging, by advertisement or otherwise as being flavoured, other than by a natural herb.

### Flavourings

(3) A person shall not sell a product that is designed to be used for flavouring, or advertised to be used to flavour, tobacco or a smoking product.

### Products with similar appearance

7. A person shall not sell any product other than tobacco or a smoking product that is designed to appear as
- (a) a cigar, cigarette, chewing tobacco, snuff or other product that usually contains tobacco;
  - (b) a pipe, waterpipe or other accessory;
  - (c) a vapour product; or
  - (d) herbal shisha.

### Vending machine

8. A person shall not allow a vending machine for selling or dispensing tobacco, or smoking products, to be in a place that the person owns or occupies, unless
- (a) the vending machine does not contain tobacco or smoking products; and
  - (b) it is in a place to which the public does not have access.

## Quantities or amounts

**9.** A person shall not sell tobacco and smoking products in quantities or amounts that are lower than the minimum quantities or amounts allowed under the regulations.

## Product standards

**10.** A person shall not sell tobacco or a smoking product that does not comply with standards relating to composition and characteristics that are prescribed by regulation.

## Packaging and labelling

**11.** A person shall not sell tobacco or smoking products that are packaged or labelled in a manner that does not comply with the regulations.

## Prohibited places

**12.** A person shall not sell tobacco or smoking products in or at

- (a) a hospital or other health facility;
- (b) a child day care facility as defined in the *Child Day Care Act*;
- (c) a long-term care facility, continuing care centre or similar residential facility;
- (d) a pharmacy, including a pharmacy that is within another retail establishment where tobacco or smoking products may be sold;
- (e) a licensed premises as defined in the *Liquor Act* or a licenced establishment as defined in the *Cannabis Act*;
- (f) a restaurant or bar;
- (g) a sports or playing field;
- (h) an arena;
- (i) a recreational centre, including, for greater certainty, a bowling alley, fitness centre, gymnasium, curling rink or other similar facility;
- (j) a cultural or entertainment facility, including a theater and cinema;
- (k) a video arcade;
- (l) an amusement park;
- (m) a school;
- (n) a campus of Nunavut Arctic College or a university as defined in the *Universities and Degree-Granting Institutions Act*;
- (o) a parade, concert or other public event;
- (p) the outdoors;
- (q) a vehicle, boat or other conveyance, or other movable premises, except a conveyance transporting persons to or from a place outside Nunavut, or through Nunavut, and only selling tobacco or smoking products to persons being transported on the conveyance; or
- (r) a place prescribed by regulation.

## Modes of sale – tobacco

**13.** (1) A person shall not sell tobacco other than

- (a) at wholesale to a person who holds a valid dealer's permit issued under the *Tobacco Tax Act* that is not suspended; or
- (b) at retail where delivery of the product to the buyer occurs
  - (i) at the time of purchase, and
  - (ii) at a permanent physical retail establishment.

### Modes of sale – vapour products and herbal shisha

- (2) A person shall not sell vapour products or herbal shisha at retail other than
- (a) where delivery of the product to the buyer occurs
    - (i) at the time of purchase, and
    - (ii) at a permanent physical retail location; or
  - (b) by any other method that ensures there is a delay of at least 24 hours between the order for and the delivery of the product.

### Tobacco production

#### Ban on certain production

**14.** A person shall not cultivate, manufacture or otherwise produce tobacco for the purpose of sale in Nunavut unless the tobacco complies with the requirements of this Act and the regulations with respect to sale.

### Advertising and promotion

#### Advertising and promotion – general prohibition

- 15.** (1) A person shall not, at any place where tobacco or smoking products are sold,
- (a) display any sign or other printed material regarding tobacco, smoking products or smoking, unless authorized to do so under the regulations; or
  - (b) otherwise advertise or promote tobacco or smoking products.

#### Exceptions

- (2) Despite subsection (1), a person may
- (a) in a tobacconist,
    - (i) promote or display advertising promoting tobacco, or an accessory designed to be used in association with the consumption of tobacco, by means of its brand characteristics, or
    - (ii) display advertising or otherwise advertise or promote tobacco in a manner that provides factual information to consumers about tobacco, or an accessory designed to be used in association with the consumption of tobacco;
  - (b) in a vape shop,
    - (i) promote or display advertising promoting a vapour product, or an accessory designed to be used in association with the consumption of vapour products, by means of its brand characteristics, or
    - (ii) display advertising or otherwise advertise or promote vapour products in a manner that provides factual information to consumers about a vapour product, or an accessory designed to be used in association with the consumption of vapour products;
  - (c) in a shisha shop,
    - (i) promote or display advertising promoting herbal shisha, or an accessory designed to be used in association with the consumption of herbal shisha, by means of its brand characteristics, or
    - (ii) display advertising or otherwise advertise or promote herbal shisha in a manner that provides factual information to consumers

- about herbal shisha, or an accessory designed to be used in association with the consumption of herbal shisha;
- (d) display, in a tobacconist, vape shop, shisha shop or other place where minors are not permitted by law and that is not visible from places where minors are permitted by law, a sign indicating the availability or price of tobacco or a smoking product; and
- (e) provide, at a place that sells tobacco or smoking products, a price list that complies with the regulations to
  - (i) a person who appears to be 25 years of age or older, and
  - (ii) a person who appears to be under 25 years of age and has provided a proof of age prescribed by regulation that indicates the person is an adult.

#### Return of price list – seller obligation

(3) A person shall make a price list available for viewing under paragraph (2)(e) only for the amount of time reasonably necessary for the person making the request to read the price list.

#### Return of price list – buyer obligation

(4) A person who is provided a price list under paragraph (2)(e) shall return it once they have read it.

#### Displaying

- 16.** (1) A retailer shall take reasonable measures to ensure that tobacco and smoking products are not visible to customers at any time, except tobacco or smoking products
- (a) that a customer has requested to purchase; or
  - (b) that are incidentally visible while a container or other storage unit or device containing tobacco or smoking products is being restocked.

#### Storage

(2) A retailer shall take reasonable measures to ensure that a container or other storage unit or device containing tobacco or smoking products is not visible to customers at any time.

#### Handling

(3) A retailer shall not sell or store tobacco or smoking products by any means that permits a person to handle the tobacco or smoking product before paying for it.

#### Exemption

(4) This section does not apply to a tobacconist, vape shop or shisha shop.

#### Pricing

- 17.** (1) A person shall not sell tobacco or a smoking product
- (a) at a reduced price based on the quantity sold or periodic or temporary discounts;
  - (b) to a retailer at a price that is different than the price at which the same product is sold, directly or indirectly, to another retailer in the same municipality;
  - (c) to a consumer at a price that is different than the price at which the same product is sold, directly or indirectly, to another consumer in the same



- retail establishment or, in the case of a sale under paragraph 13(2)(b), in the same municipality;
- (d) at a price that is less than the total of all taxes on the product under the laws of Nunavut and Canada, including taxes on taxes; or
- (e) at a price that does not otherwise meet the conditions prescribed by regulation.

#### Incentives – wholesale

(2) A cultivator, producer, manufacturer, seller or other provider of tobacco or smoking products, or their employee or agent, shall not provide a retailer or other seller of tobacco or smoking products, or their employee or agent, any rebate, gratuity, benefit, payment, incentive or consideration other than

- (a) tobacco or a smoking product at the regular price that is available to all other retailers in the municipality, or, for a place outside a municipality, in the closest municipality; or
- (b) a rebate, gratuity, benefit, payment, incentive or consideration that is prescribed by regulation.

#### Incentives – retail

(3) A cultivator, producer, manufacturer, seller or other provider of tobacco or smoking products, or their employee or agent, shall not provide a consumer any rebate, gratuity, benefit, payment, incentive or consideration other than

- (a) tobacco or a smoking product at the regular price that is available to all other consumers; or
- (b) a rebate, gratuity, benefit, payment, incentive or consideration that is prescribed by regulation.

#### General advertising

**18.** A person shall not advertise or otherwise promote tobacco or smoking products

- (a) subject to the regulations, in a place where minors are permitted to enter; or
- (b) in a manner that does not comply with the regulations.

#### Tobacconists, vape shops and shisha shops

#### General requirements

- 19.** (1) A retailer that operates a tobacconist, a vape shop or a shisha shop shall ensure that
- (a) the inside of the tobacconist, vape shop or shisha shop is not visible from the outside;
  - (b) their employees comply with paragraph 4(2)(b);
  - (c) minors are not employed in the tobacconist, vape shop or shisha shop;
  - (d) there is no customer seating in the tobacconist, vape shop or shisha shop;
  - (e) customers are not provided food and do not consume food in the tobacconist, vape shop or shisha shop;
  - (f) subject to the regulations, no activity occurs at tobacconist, vape shop or shisha shop, other than the sale of products permitted under subsections (2) to (4) and their display, advertising and promotion in accordance with this Act and the regulations; and
  - (g) they comply with any conditions prescribed by regulation.

## Product restrictions – tobacconist

- (2) A person shall not sell any product other than the following at a tobacconist:
- (a) tobacco;
  - (b) accessories that are designed to be used in association with the consumption of tobacco;
  - (c) subject to the regulations, publications related to tobacco;
  - (d) lighters and matches.

## Product restrictions – vape shop

- (3) A person shall not sell any product other than the following in a vape shop:
- (a) vapour products;
  - (b) accessories that are designed to be used in association with the consumption of vapour products;
  - (c) subject to the regulations, publications related to vapour products.

## Product restrictions – shisha shop

- (4) A person shall not sell any product other than the following in a shisha shop:
- (a) herbal shisha;
  - (b) accessories that are designed to be used in association with the consumption of herbal shisha;
  - (c) subject to the regulations, publications related to herbal shisha;
  - (d) lighters and matches.

## Prohibitions related to consumption

## Definition

**20.** (1) In this section, "buffer zone" means, with respect to a building, other structure or other enclosed space, an outdoor area that is within a distance prescribed by regulation from

- (a) its entrances or exits;
- (b) any stairs, ramps, landings or similar parts of the building, other structure or enclosed area that lead to or from its entrances or exits;
- (c) its open or openable windows or other openings; or
- (d) its air intakes.

## Smoke-free places

- (2) Subject to this section, a person shall not smoke
- (a) at a workplace, or in its buffer zone;
  - (b) in a public structure, or its buffer zone;
  - (c) in the common areas of an apartment building or a condominium building, or their buffer zones;
  - (d) in a school, or its buffer zone;
  - (e) in a place, including a private dwelling, where child day care services are provided for money or other consideration, or its buffer zone, during the times at which the services are being provided;
  - (f) in the outside area of a restaurant or bar where food or drinks are served or consumed, or in its buffer zone as described in the regulations;
  - (g) in the buffer zone of a window or other opening in a structure that is used for providing goods or services to the public;

- (h) in or on a public conveyance;
- (i) in or on a motor vehicle, motorized boat or other motorized conveyance when a minor is present in or on it, regardless of whether it is enclosed or not;
- (j) on the grounds of
  - (i) a hospital or other health facility,
  - (ii) a school,
  - (iii) a child day care facility, as defined in the *Child Day Care Act*;
- (k) at a playground;
- (l) at a sports or playing field;
- (m) at a parade, concert or other public event;
- (n) on spectator stands, regardless of whether or not an event is in progress;
- (o) at a bus stop;
- (p) on sidewalks and pedestrian walkways, trails and paths;
- (q) while waiting their turn to enter any place referred to in paragraphs (a) to (g), or while accompanying another person who is so waiting;
- (r) in the buffer zone of a dwelling, other than
  - (i) the dwelling of the person, or
  - (ii) the dwelling of another person who consents; or
- (s) on, at or in any other place prescribed by regulation
  - (i) to which the public has access as of right or by invitation, express or implied, or
  - (ii) where one or more employees work.

Exception – minors in vehicles

(3) Paragraph (2)(i) does not apply to a minor who is alone in or on a motor vehicle, motorized boat or other motorized conveyance.

Exception – designated smoking structure

(4) Paragraphs (2)(a) and (b) does not apply to a structure that is only intended to be used by smokers and

- (a) is constructed in accordance with regulations as a designated smoking structure;
- (b) has conspicuous signs indicating it is a designated smoking structure posted in accordance with the regulations; and
- (c) is not otherwise in a place where smoking is prohibited under subsection (2), including any buffer zone.

Exception – private residence at workplace

(5) Paragraph (2)(a) does not apply to an employee smoking in a part of a workplace that is used as a private dwelling and to which the public is not admitted.

Exception – remaining at workplace

(6) Paragraph (2)(a) does not apply to an employee that is required to remain in a workplace for the duration of their shift, if they smoke in the workplace in the areas where and circumstances in which smoking is permitted under the regulations made under the *Safety Act* or the *Mine Health and Safety Act*.

## Same

(7) For greater certainty, the exception in subsection (6) does not apply in circumstances where it is reasonably practicable for the employee to smoke outside the buffer zone of the workplace or in a designated smoking structure under subsection (4).

## Proprietor's obligations

- 21.** (1) The proprietor of a place where smoking is prohibited under section 20 shall
- (a) ensure compliance with that section;
  - (b) in accordance with the regulations, post signs prohibiting smoking; and
  - (c) ensure that no ashtrays or similar smoking equipment are placed or permitted to remain in any part of the place.

## Exception

(2) Subsection (1) does not apply to a place described in paragraph 20(2)(p) to (r).

## Removing person

(3) If a person refuses to stop smoking in a place where smoking is prohibited under section 20, the proprietor may use reasonable means in the circumstances to remove a person from the place.

## Smoker's responsibility

- 22.** (1) A person shall not smoke in a manner or place, including in the dwelling of the person, that results in, or could reasonably be expected to result in, smoke or vapour entering and being detectable by smell or sight in
- (a) a workplace, public structure or a public conveyance;
  - (b) the common area of an apartment building or condominium building; or
  - (c) a dwelling, other than
    - (i) the dwelling of the person, or
    - (ii) the dwelling of another person who consents.

## Exception – outdoor smoking outside prescribed distance

(2) With respect to smoking that occurs outdoors, subsection (1) applies only if the smoking takes place within the buffer zone as defined in subsection 20(1).

## Nature of consent

- (3) Consent under subparagraph (1)(c)(ii)
- (a) may not be given by contract; and
  - (b) may be revoked at any time.

## Tobacco-free schools

**23.** A person shall not consume tobacco in any manner in a school or on school grounds.

## Smoke-free housing

## Definition

- 24.** (1) In this section, "publicly funded housing provider" means
- (a) the Nunavut Housing Corporation;
  - (a.1) any other entity that rents staff housing to
    - (i) members of the public service, or

- (ii) other employees of a public agency;
- (b) housing authorities incorporated under the *Nunavut Housing Corporation Act*; or
- (c) housing associations and other entities that have an agreement with the Nunavut Housing Corporation for the operation of a housing project under the *Nunavut Housing Corporation Act*.

#### Prohibition on smoking

(2) A person shall not smoke in a private dwelling that is leased from a publicly funded housing provider.

#### Prohibition included in tenancy agreement

(3) A publicly funded housing provider shall include a prohibition on smoking in every tenancy agreement for a private dwelling that is or has been entered into by it as landlord.

#### Deemed inclusion in tenancy agreement

(4) Despite the *Residential Tenancies Act*, the prohibition on smoking referred to in subsection (3) is binding on tenants as a condition of their tenancy agreement as soon as the publicly funded housing provider provides them with written notice of the prohibition, regardless of

- (a) whether the prohibition is otherwise included in the text of the tenancy agreement; or
- (b) whether the tenancy agreement was entered into before or after this Act received Assent or comes into force.

#### Sublessor

(5) This section applies even when

- (a) the publicly funded housing provider subleases a private dwelling that it has leased from another person; or
- (b) a private dwelling leased or subleased from a publicly funded housing provider is subleased by the tenant to another person.

### Smoking in housing

#### Condominiums and co-operatives

**25.** (1) The condominium corporation or a co-operative association for a building with two or more residential units shall

- (a) have a by-law respecting smoking in the residential units;
- (b) disclose the by-law to prospective members; and
- (c) disclose the by-law to members
  - (i) when it is made or amended,
  - (ii) annually, and
  - (iii) upon request.

#### Residential tenancies

(2) The landlord of a residential tenancy in a building with two or more residential units shall disclose to prospective tenants, and annually and upon request to tenants,

- (a) the provisions in the tenancy agreement or prospective tenancy agreement with respect to smoking in the residential unit;

- (b) whether other residential units in the building are governed by different tenancy agreement provision with respect to smoking; and
- (c) if other residential units in the building are governed by different tenancy agreement provisions with respect to smoking, the nature of those differences.

#### Form of disclosure

(3) The disclosures under this section must be in writing and made separately from any other disclosures or documents provided to the member, prospective member, tenant or prospective tenant.

### Enforcement officers

#### Appointment

**26.** (1) The Minister may appoint enforcement officers for the purposes of this Act.

#### Powers of peace officers

(2) Subject to this Act, enforcement officers have all the powers of peace officers when exercising their functions under this Act.

#### Restricted appointments

(3) The Minister may, in an appointment, restrict the powers of an enforcement officer, including with respect to the places where the enforcement officer may exercise their powers.

### Inspections

#### Right to enter and inspect

**27.** (1) Subject to subsection (3), for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract, an enforcement officer may, at any reasonable time, enter and inspect any place, without a warrant.

#### Show identification

(2) The enforcement officer shall, on request, show their official identification to the occupant or person in charge of the place the enforcement officer is entering and inspecting under this Act.

#### Dwelling

(3) Despite subsection (1), the enforcement officer shall not enter or inspect a dwelling unless

- (a) the occupant or person in charge of the dwelling consents; or
- (b) the inspection is authorized by a warrant.

#### Inspection powers

(4) During an inspection of a place, the enforcement officer may, for the purpose of ensuring compliance with any provision of this Act or the regulations,

- (a) open or cause to be opened any container or vending machine whose contents may be relevant for the purpose of ensuring compliance;
- (b) inspect any thing;
- (c) take samples of any substance, thing, liquid, or gas;

- (d) make audio, photo or video recordings of the place or any thing;
- (e) require any person to produce any record or data for inspection in whole or in part; and
- (f) seize any thing in accordance with section 29 that may provide evidence for the purpose of ensuring compliance.

#### Assistance

(5) The owner or the person in charge of a thing or place being inspected under this Act, and every person found in the place, shall

- (a) give the enforcement officer all reasonable assistance to enable them to carry out their functions; and
- (b) provide the enforcement officer with any information in relation to the administration of this Act that they may reasonably require.

#### Delegation

(6) An enforcement officer may, on consent, delegate a specific and time limited inspection power to a peace officer if they believe that

- (a) the inspection must be performed without delay; and
- (b) they are unable to perform the inspection due to their illness, absence or other inability.

**Note:** On April, 2024, section 28 of the Act comes into force:

#### Biannual inspections

**28.** (1) The Minister shall ensure the premises of each retailer in Nunavut is inspected at least twice per year in accordance with the regulations.

#### No restriction on inspection powers

(2) Nothing in the section restricts

- (a) the power of an enforcement officer to perform an inspection at times other than the biannual inspections;
- (b) the power of an enforcement office, during a biannual inspection to perform a more extensive inspection than is requires by the regulations; or
- (c) the ability of a retailer to continue selling tobacco or smoking products despite a failure to perform an inspection required under subsection (1).

*See R-008-2023 (b).*

## Searches

#### Searches of places and things

**29.** If an enforcement officer or peace officer believes, on reasonable grounds, that an offence under this Act has been committed, they may enter any place and search any thing or place for the purpose of obtaining evidence in relation to that offence under this Act if

- (a) the owner or person in possession of the thing or the occupant or person in charge of the place, as the case may be, consents;

- (b) the search is authorized by a warrant; or
- (c) with respect to a place that is not a dwelling, the enforcement officer or peace officer has reasonable grounds to believe that distance, urgency, the likelihood of the removal or destruction of the evidence and other relevant factors do not reasonably permit the obtaining of a warrant or consent.

### Additional powers

#### Operation of equipment

**30.** (1) In carrying out an inspection or search under this Act, an enforcement officer or peace officer may

- (a) use or cause to be used any computer system and examine any data contained in or available to the computer system; and
- (b) in accordance with section 31,
  - (i) reproduce or cause to be reproduced any record or data,
  - (ii) print or export any record or data for examination or copying, and
  - (iii) use or cause to be used any copying equipment at the place to make copies of the record or data.

#### Obstruction

(2) While an enforcement officer or peace officer is exercising powers or carrying out duties or functions under this Act, no person shall

- (a) knowingly make any false or misleading statement, either orally or in writing, to the enforcement officer or peace officer; or
- (b) otherwise obstruct or hinder the enforcement officer or peace officer, other than by refusing entry to a place if the enforcement officer or peace officer requires a warrant to enter the place.

#### Stopping a vehicle or other conveyance

(3) For the purpose of carrying out a search or inspection, an enforcement officer or peace officer may stop a vehicle, boat or other conveyance and direct that it be moved to a convenient place for the search or inspection.

#### Compliance

(4) When directed by an enforcement officer or peace officer under this section, a person shall stop or move the vehicle, boat or other conveyance as directed.

#### Warrant

(5) For greater certainty, nothing in this section allows for an entry, search or seizure without a warrant where a warrant is otherwise required by this Act.

### Seizures

#### Seizures during inspections

**31.** (1) If, during the course of an inspection, an enforcement officer has reasonable grounds to believe that a thing may provide evidence for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract, the enforcement officer may seize, detain and carry away the thing if



- (a) the seizure is authorized by a warrant; or
- (b) distance, urgency, the likelihood of the removal or destruction of the thing as evidence or other relevant factors do not reasonably permit obtaining a warrant.

#### Seizures during searches

(2) If, during the course of a search, an enforcement officer or peace officer has reasonable grounds to believe that a thing is evidence in relation to an offence under this Act, the enforcement officer or peace officer may seize, detain and carry away the thing if

- (a) the seizure is authorized by a warrant; or
- (b) distance, urgency, the likelihood of the removal or destruction of the thing as evidence or other relevant factors do not reasonably permit obtaining a warrant.

#### Seizure of forfeitable things

(3) An enforcement officer or peace officer may seize any thing that they have reasonable grounds to believe is forfeitable under this Act

- (a) under the authority of a warrant; or
- (b) without a warrant, if the thing is found
  - (i) during an inspection or search under this Act,
  - (ii) during any other lawful search, or
  - (iii) in plain sight in the course of their duties, whether under this Act or otherwise.

#### Entry into dwellings

(4) For greater certainty, an enforcement officer or peace officer may not enter a dwelling to effect a seizure unless

- (a) the occupant or person in charge of the dwelling consents; or
- (b) the entry is authorized by a warrant.

### Disposition of things seized

#### Receipt for things seized

**32.** (1) If an enforcement officer or peace officer seizes a thing under this Act, other than a sample taken pursuant to paragraph 27(4)(c), they shall issue a receipt to the person from whom it was seized which

- (a) describes the thing seized; and
- (b) in the case of a thing seized under subsection 31(3),
  - (i) declares that the thing is forfeit to the Government of Nunavut, and
  - (ii) indicates that an application for the return of the thing may be made under section 34.

#### Examination of thing seized

(2) An enforcement officer or peace officer may have a thing seized under this Act, including a sample taken pursuant to paragraph 26(4)(c), examined or analysed.

**Destruction or disposal**

(3) A thing seized under this Act, other than under subsection 31(3), may be destroyed or otherwise disposed of safely under the direction of an enforcement officer or peace officer without making an application for disposition under section 33, if they have reasonable grounds to believe that there is nothing of value to be returned.

**Right to reclaim thing seized**

(4) If a thing seized under this Act is no longer needed as evidence and has not been destroyed or otherwise disposed of in accordance with subsection (3) or as a result of being examined,

- (a) the enforcement officer or peace officer must notify the owner or other person from whom it was seized in accordance with the regulations; and
- (b) the owner or the person from whom it was seized may reclaim it.

**Unclaimed things**

(5) If the owner or the person from whom the thing was seized under this Act does not reclaim it within seven days after being notified under subsection (4), the enforcement officer or peace officer who seized it may destroy or otherwise dispose of it.

**Custody and disposition of things seized**

(6) Subject to subsections (2) to (5), an enforcement officer or peace officer shall ensure that proper custody of a thing seized under this Act is maintained pending disposition under section 33 or 34.

**Application for disposition**

**33.** (1) An enforcement officer or peace officer shall, as soon as practicable, bring the seizure of a thing under this Act before a justice or judge, unless

- (a) the thing was destroyed, disposed of, reclaimed or unclaimed under section 32; or
- (b) the thing was seized under subsection 31(3).

**Affidavit**

(2) The enforcement officer or peace officer shall provide the justice or judge with an affidavit stating

- (a) their grounds for believing that the thing seized
  - (i) may provide evidence for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract, or
  - (ii) may provide evidence of an offence under this Act;
- (b) the name of the person, if any, having physical possession of the thing at the time it was seized; and
- (c) where the thing is and how it was dealt with.

**Disposition**

(3) A justice or judge may make the following orders in respect of a thing seized under this Act:

- (a) order the thing delivered to the owner or person entitled to it;
- (b) order the thing to be held as evidence in a proceeding relating to the thing;

- (c) order the thing to be destroyed or otherwise disposed of safely under the direction of an enforcement officer or peace officer;
- (d) order that the thing be forfeited to the Government of Nunavut;
- (e) order the Government of Nunavut to provide fair compensation to the owner of the thing or the person entitled to it.

#### Return of thing seized as forfeitable thing

**34.** (1) If a thing is seized under subsection 31(3), the person from whom it was seized or another person claiming ownership of the thing may apply to a justice or judge for the return of the thing within 30 days after being provided a receipt for the thing under subsection 32(1).

#### Disposition

- (2) Following the hearing of an application under subsection (1),
  - (a) if the justice or judge is satisfied that the thing is not forfeitable under this Act, the justice or judge
    - (i) shall provide the enforcement officer or peace officer an opportunity to provide an affidavit in accordance with subsection 33(2) with respect to the thing, and
    - (ii) may make any order under subsection 33(3) with respect to the thing; or
  - (b) in any other case, the justice or judge shall confirm the forfeiture of the thing.

#### Destruction of forfeitable thing

(3) Subject to subsection (4), if no application is made under subsection (1) with respect to a thing seized under subsection 31(3), or a justice or judge confirms the forfeiture of the thing under paragraph (2)(b), the enforcement officer or peace officer shall destroy or otherwise safely dispose of the thing or direct its destruction or safe disposal.

#### Evidence

(4) If a thing seized under subsection 31(3) is needed as evidence in a proceeding related to the thing, the enforcement officer or peace officer shall not destroy or otherwise dispose of the thing, or direct its destruction or safe disposal, until it is no longer needed as evidence.

### Limitation on powers

#### Information, records or data

**35.** The powers under sections 27 to 31 and subsection 32(2) may not be used with respect to information, records or data except to the extent that doing so is

- (a) necessary for the purposes of an inspection, search or seizure; or
- (b) authorized by a warrant.

### Warrants

#### Inspection warrant

**36.** (1) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (2), if the justice or judge is satisfied by the information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found or obtained there evidence that is required for the purpose of ensuring compliance with any provision of this Act or the regulations; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or the evidence may be lost if an attempt at obtaining consent is made.

#### Powers under inspection warrant

(2) A warrant issued under subsection (1) may authorize the person named in the warrant to do any or all of the following:

- (a) inspect the place;
- (b) seize any evidence referred to in paragraph (1)(a);
- (c) perform or cause to be performed any relevant test;
- (d) require that any machinery, equipment or device be operated, used, stopped or set in motion;
- (e) question a person on any relevant matter;
- (f) demand the production of any document or other thing;
- (g) require any person present in the place to give all reasonable assistance to the person named in the warrant to enable them to exercise powers and perform duties under this Act.

#### Search warrant

(3) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (4), if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found or obtained there evidence of an offence under this Act; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or that the evidence may be lost if an attempt at obtaining consent is made.

#### Powers under search warrant

(4) A warrant issued under subsection (3) may authorize the person or persons named in the warrant to do any or all of the following:

- (a) search the place;
- (b) seize any evidence referred to paragraph in (3)(a);
- (c) perform or cause to be performed any relevant test;
- (d) require that any machinery, equipment or device be stopped;
- (e) demand the production of any document or other thing;
- (f) require that a person named or specified in the warrant provide assistance specified in the warrant and required to give effect to the warrant.

#### Application without notice

(5) A warrant under this section may be issued, with conditions, on an application made without notice and in the absence of the owner or occupier of the place.

#### Time of execution

**37.** (1) A warrant must be executed at a reasonable time, or as specified in the warrant.

#### Expiration and extension

(2) A warrant must state the date on which it expires, and a justice or judge may extend the date on which the warrant expires for such additional periods as the justice or judge considers necessary.

#### Use of force

(3) A person named in a warrant may use such force as is reasonable and necessary to make the entry and exercise any power specified in the warrant.

#### Call for assistance

(4) A person named in a warrant may call on any other person they consider necessary to execute the warrant.

#### Providing assistance

(5) A person called upon under subsection (4) may provide a person named in the warrant any assistance that is necessary to execute the warrant.

#### Identification

(6) On the request of an owner or occupant of the place, a person executing a warrant shall identify themselves, provide a copy of the warrant and explain the purpose of the warrant.

### Assistance of by-law officers

#### Request for assistance

**38.** (1) An enforcement officer or peace officer may request the assistance of a by-law officer appointed under the *Hamlets Act* or the *Cities, Towns and Villages Act* in enforcing this Act or the regulations.

#### Powers and protections

(2) The powers and protections of a person requesting assistance under subsection (1) apply to and may be exercised by the by-law officers while acting under the instructions of the person requesting assistance.

### Oaths and affirmations

#### Power to administer oaths and affirmations

**39.** An enforcement officer or peace officer may administer an oath or affirmation as if they were a commissioner for oaths to a person making a written declaration or affidavit in respect of any matter relating to the administration of this Act or the regulations.

### Immunities

#### Protection from liability

**40.** (1) An enforcement officer, peace officer or person giving assistance under this Act is not liable for any loss or damage suffered by reason of anything done or not done by them in good faith in the exercise of their powers, in the performance of their functions or duties or in giving assistance under this Act.

### Vending machine

(2) No person is liable for any damage done to a vending machine opened under the authority of this Act.

### No reprisal

**41.** If an employee has acted in accordance with this Act or has sought enforcement of this Act, an employer or a person acting on behalf of an employer shall not, for that reason,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee or threaten to do so;
- (c) impose or threaten to impose a penalty on an employee; or
- (d) intimidate or coerce an employee.

## Reports

### Reports by sellers

**42.** (1) A person who sells tobacco or smoking products at retail shall

- (a) submit a report to the Minister every two years in accordance with regulations indicating that the person is still selling tobacco or smoking products; and
- (b) submit other reports to the Minister in accordance with the regulations.

### Report by former seller

(2) A person who ceases selling tobacco and smoking products at retail shall submit a report to the Minister in accordance with the regulations indicating that the person is no longer selling tobacco or smoking products.

### Annual report

**43.** The Minister shall

- (a) within six months after the end of each fiscal year, prepare an annual report on the operation of this Act; and
- (b) table the annual report in the Legislative Assembly during the first sitting of the Assembly after the report is submitted that provides a reasonable opportunity for tabling the report.

## Offences, punishment and prohibitions

### Offences

**44.** (1) A person who contravenes a provision of this Act listed in the first column of the table in the Schedule commits an offence and is liable on summary conviction to

- (a) a maximum fine or daily fine in the amount set out opposite the number of previous convictions in the second column and the provision contravened in the first column
  - (i) in the case of an individual, in the third column of the table, and
  - (ii) in the case of a corporation, in the fourth column of the table; or
- (b) in the case of a previous conviction,
  - (i) to either a fine under paragraph (a) or imprisonment for a term of not more than six months, or
  - (ii) to both a fine under paragraph (a) and imprisonment for a term of not more than six months.

**Daily fine**

(2) A daily fine under this section is for each day or part of a day during which the contravention continued.

**Earlier convictions**

(3) In determining the number of previous convictions under this section

- (a) only the number of convictions for the same offence in the five years preceding the current conviction are considered; and
- (b) only the sequence of convictions is considered, without consideration for the sequence of commission of offences or to whether an offence occurred before or after a conviction.

**Liability of corporate officers**

(4) If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence is guilty of the offence and is liable, whether or not the corporation has been prosecuted, to the fine provided for the offence as an individual.

**Definition**

**45.** (1) In this section,

"notified persons" means

- (a) a person who owns or occupies the place where the sales offences were committed,
- (b) the owner and, if applicable, the lessee of the land on which the place is situated,
- (c) the Minister of Finance, and
- (d) all persons who sell tobacco or smoking products for the purpose of resale within Nunavut; (*personnes avisées*)

"prohibited place" means a place for which

- (a) a notice under subsection (3) has been served on the owner or occupier of the place and has not been cancelled under subsection (6), and
- (b) the period of prohibition specified in the notice, or in the most recent amendment to the notice under subsection (6), has not yet expired; (*lieu interdit*)

"sales offence" means an offence resulting from contravening one of the following provisions:

- (a) subsections 4(1) to (5) (provision to minors and verification of age),
- (b) section 6 (flavoured products),
- (c) section 7 (products with similar appearance),
- (d) section 8 (vending machines),
- (e) section 9 (quantities or amounts),
- (f) section 10 (product standards),
- (g) section 11 (packing and labelling),
- (h) section 12 (prohibited places),
- (i) section 13 (modes of sale),
- (j) section 15 (advertising and promotion at point of sale),

- (k) section 16 (displaying, storing and handling),
- (l) section 17 (pricing and incentives),
- (m) section 19 (tobacconists, vape shops and shisha shops),
- (n) this section (prohibited places),
- (o) section 5.1 of the *Tobacco Tax Act*. (*infraction relative à la vente*)

#### Convicted

- (2) For the purposes of this section, a person is convicted
- (a) on the date of the conviction in the first instance; and
  - (b) only if all appeals, if any, of the conviction have been finally disposed of and the period allowed for any appeal or further appeal has expired.

#### Service of notice

- (3) Subject to subsection (6), the Minister shall serve a notice of prohibition under subsection (4) to the notified persons if
- (a) a person is convicted of a sales offence committed in a place; and
  - (b) a person was convicted of another sales offence, whether of the same provision or a different provision, in the same place no more than five years before the conviction referred to in paragraph (a).

#### Content of notice

- (4) A notice under subsection (3) must
- (a) specify the place to which it applies;
  - (b) specify the day on which it is to take effect; and
  - (c) specify the period of prohibition, which must begin on the day specified under paragraph (a) and end after no more than
    - (i) twelve months if there have been three or more convictions for sales offences in the place during the five years before the date of the conviction referred to in paragraph (3)(a),
    - (ii) nine months if there have been two convictions for sales offences in the place during the five years before the date of the conviction referred to in paragraph (3)(a), or
    - (iii) six months in any other case.

#### Sequence of convictions

(5) In establishing the number of convictions for the purposes of this section, only the sequence of convictions is considered, without consideration for the sequence of commission of offences or to whether an offence occurred before or after a conviction.

#### Exception

- (6) If the Minister
- (a) is aware that there has been a change in ownership of the place as a result of a genuine arm's length transaction within the last five years, the Minister shall
    - (i) not serve a notice under subsection (3) if the sales offence referred to in paragraph (3)(a) is the first one in the place since the change in ownership, or



- (ii) only take into account those convictions that occurred after in the change in ownership for the purposes of determining the period of prohibition under paragraph (4)(c); or
- (b) becomes aware, after service of a notice under subsection (3), that there has been a change in ownership of the place as a result of a genuine arm's length transaction either before or after the notice was served, the Minister shall
  - (i) cancel the notice if the sales offence referred to in paragraph (3)(a) occurred before the change in ownership or is the first one in the place since the change in ownership,
  - (ii) if applicable, amend the period of prohibition specified in the notice to only take into account those convictions that occurred after the change in ownership, and
  - (iii) serve a notice of a cancellation or amendment, if any, made under subparagraphs (i) and (ii) to the notified persons.

#### Publication in newspaper

(7) The Minister shall cause a copy of a notice served under this section to be published in a newspaper having local circulation in the municipality where the place to which the notice applies is located.

#### Prohibition

- (8) A person shall not
- (a) sell or store tobacco or smoking products in a prohibited place; or
  - (b) deliver tobacco or smoking products to a prohibited place.

#### Excuse

- (9) Subsection (8) does not apply if the person
- (a) had not been served the notice under subsection (3); and
  - (b) did not know, and could not reasonably have known, that the place was a prohibited place.

#### Exception

(10) A person does not contravene section (8) by reason of possessing tobacco or smoking products for personal use in amounts prescribed by the regulations.

### Regulations

#### Regulations

- 46.** (1) The Commissioner in Executive Council may make regulations
- (a) prescribing items for the purpose of the definition of "accessory";
  - (b) prescribing items that are not included in the definition of "accessory";
  - (c) prescribing classes of public officers or law enforcement officers as enforcement officers, with or without restrictions;
  - (d) prescribing substances that are not included in the definition of "smoking product";
  - (e) prescribing drugs or devices that are vapour products even though the *Food and Drugs Act (Canada)* applies to them;
  - (f) respecting proofs of age;

- (g) respecting policies, practices and procedures under section 5;
- (h) respecting flavouring agents and shisha flavouring agents;
- (i) respecting minimum quantities or amounts of tobacco or smoking products that may be sold;
- (j) respecting standards relating to the composition and characteristics of tobacco and smoking products;
- (k) respecting the packaging and labelling of tobacco and smoking products;
- (l) prescribing places where tobacco and smoking products may not be sold;
- (m) respecting signs and other printed materials regarding tobacco, smoking products or smoking at places where tobacco and smoking products are sold;
- (n) respecting price lists;
- (o) respecting prices of tobacco and smoking products;
- (p) respecting rebates, gratuities, benefits, payments, incentives or considerations under subsections 17(2) and (3);
- (q) respecting advertising and promotion of tobacco and smoking products;
- (r) respecting the operation of tobacconists, vape shops and shisha shops;
- (s) respecting buffer zones under section 20, including prescribing distances for the purposes of buffer zones;
- (t) respecting the construction and signage of designated smoking structures;
- (u) respecting signs prohibiting smoking, including
  - (i) their content,
  - (ii) their location, and
  - (iii) who may approve them;
- (v) respecting biannual inspections;
- (w) respecting notifications and notices under this Act, including their service;
- (x) respecting reports that sellers of tobacco or smoking products must submit to the Minister;
- (y) respecting amounts for personal use under subsection 45(10);
- (z) providing for exemptions from a provision of this Act or the regulations for religious, spiritual, cultural or health-related reasons;
- (aa) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act; and
- (ab) respecting any other matter that is, in the opinion of the Minister, necessary to carry out effectively the intent and purpose of this Act.

#### Power to differentiate

- (2) Regulations made under this Act may
- (a) be general or particular in application;
  - (b) be different for different classes; and
  - (c) establish classes for the purposes of paragraph (b).

#### Codes and standards

(3) A regulation under this Act may incorporate by reference, with or without variation, a code or standard created by another entity, to be in force in Nunavut, either in whole or in part or with such variations as may be specified in the regulation, as established or as amended from time to time.

### Transitional

#### Displaying and storing tobacco

**47.** Subsections 16(1) and (2) do not apply for a period of six months after the coming into force of those subsections with respect to containers, storage units or other storage devices that existed before the coming into force of those subsections.

**48. Deleted: 5<sup>th</sup> Legislative Assembly, 28 May, 2021**

#### By-laws

**49.** If a condominium corporation or co-operative association referred to in subsection 25(1) does not have a by-law referred to in paragraph 25(1)(a) on Assent to this Act,

- (a) it must have such a by-law no later than 24 months after Assent to this Act; and
- (b) paragraphs 25(1)(b) and (c) do not apply until the by-law is made or 24 months after Assent to this Act, whichever is earlier.

### Note

**The following provisions have been deleted for the purposes of this consolidation:  
s.50 to 55 (Related Amendments, Consequential Amendments, Coordinating Amendments,  
and Repeal)**

### Coming into force

**56. This Act comes into force on a day to be fixed by order of the Commissioner.**

**SCHEDULE***(Subsection 44(1))***MAXIMUM FINES**

PROVISION CONTRAVENED	NUMBER OF EARLIER CONVICTIONS	MAXIMUM FINE— INDIVIDUAL	MAXIMUM FINE— CORPORATION
		\$	\$
4(1), 6(1), 6(2), 6(3) 10, 11, 13(1), 13(2), 17(1), 17(2), 17(3), 18, 19(1), 19(2), 19(3), 19(4), 24(3), 25(1), 25(2), 27(5), 42(1), 42(2)	0	\$4,000	\$15,000
	1	\$10,000	\$20,000
	2	\$20,000	\$50,000
	3 or more	\$100,000	\$150,000
4(2), 4(4), 4(5), 4(6), 4(7), 4(8), 7, 12, 14, 15(1), 15(3), 15(4), 16(1), 16(2), 16(3), 22(1), 24(2), 30(2), 30(4), 41, 45(8)	0	\$2,000	\$5,000
	1	\$5,000	\$15,000
	2	\$10,000	\$25,000
	3 or more	\$50,000	\$75,000
5(1), 5(2), 18, 21(1), 26(2)	0	\$2,000 per day	\$5,000 per day
	1	\$5,000 per day	\$15,000 per day
	2	\$10,000 per day	\$25,000 per day
	3 or more	\$50,000 per day	\$75,000 per day
8	0 or more	\$2,000 per day	\$2,000 per day
9	0	\$2,000	\$100,000
	1	\$5,000	\$300,000
	2	\$10,000	\$300,000
	3 or more	\$50,000	\$300,000
20(2), 23	0	\$1,000	
	1 or more	\$5,000	

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