

## Chapter 13

### CORRECTIONS ACT (Assented to June 6, 2019)

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

#### Interpretation

##### Definitions

1. (1) In this Act,

"administrative segregation" means segregation ordered under section 22; (*isolement préventif*)

"Committee" means the Inuit Societal Values Committee established under section 61; (*Comité*)

"correctional centre" means a correctional centre established or continued under section 10 and used for the lawful custody of inmates and includes a place deemed to be part of a correctional centre under subsection 10(3); (*centre correctionnel*)

"correctional program" means a correctional program established under subsection 33(1); (*programme correctionnel*)

"culturally appropriate" means appropriate in the culture of an individual, and particularly in the case of an Inuk, means appropriate in the Inuit culture; (*culturellement adapté*)

"Deputy Investigations Officer" means the Deputy Investigations Officer appointed under section 40; (*agent enquêteur adjoint*)

"Deputy Minister" means the Deputy Minister of Justice appointed under the *Department of Justice Act*; (*sous-ministre*)

"Director" means the Director of Corrections appointed under section 4; (*directeur*)

"employee" means a person, other than an inmate, who is employed in a correctional centre under the direction of the Warden of the centre and includes a Warden; (*employé*)

"inmate" means a person lawfully confined in a correctional centre; (*détenu*)

"investigation" means an investigation conducted under section 50; (*enquête*)

"Investigations Officer" means the Investigations Officer appointed under section 39 and includes the Deputy Investigations Officer acting under paragraph 40(4)(b), an acting Investigations Officer appointed under section 41 and a special Investigations Officer appointed under section 42; (*agent enquêteur*)

"lawyer" means a person entitled to practice law in Nunavut; (*avocat*)

"penitentiary" means a penitentiary as defined in the *Corrections and Conditional Release Act* (Canada); (*pénitencier*)

"physical restraint device" means a physical device intended to temporarily restrict or limit free movement, reviewed and approved by the Director; (*dispositif de contention*)

"probation officer" means a probation officer appointed under subsection 6(1) and includes the Director; (*agent de probation*)

"probationer" means a person subject to a probation order made by a court; (*probationnaire*)

"review" means a review conducted under section 21, 23 or 59; (*examen*)

"Warden" means the Warden of a correctional centre appointed under subsection 11(1) and includes a person designated under subsection 11(3); (*administrateur*)

"working day" means any day other than the following:

- (a) Saturday and Sunday,
- (b) holidays under the *Public Service Act*,
- (c) a day on which the offices of the Government of Nunavut in the community of the decision maker are closed due to inclement weather, a disaster or other similar circumstance. (*jour ouvrable*)

In writing

- (2) Anything required under this Act to be provided to a probationer or inmate in writing
  - (a) if the probationer or inmate understands one or more official languages of Nunavut,
    - (i) must be provided in the official language requested by the probationer or inmate, or, absent such a request, in any of the official languages the probationer or inmate understands, and
    - (ii) in the case of an illiterate probationer or inmate, must be accompanied by an oral explanation in the same language; or
  - (b) if the probationer or inmate does not understand an official language of Nunavut,
    - (i) must be provided in the official language requested by the probationer or inmate, or, absent such a request, in any of the official languages, and
    - (ii) may be accompanied by a translation, either written or oral, in a language that the probationer or inmate understands.

Same

- (3) Anything required under this Act to be provided by a probationer or inmate in writing
  - (a) may be provided in any official language of Nunavut; and
  - (b) in the case of an illiterate probationer or inmate,
    - (i) may be provided orally in any official language of Nunavut, and
    - (ii) shall be recorded by a person designated by the Director in a manner approved by the Director.

Verification of recording

- (4) When a person designated by the Director records the words of an inmate under subparagraph (3)(b)(ii), the person shall,
  - (a) if the words are recorded as a sound recording,
    - (i) play back the recording to the inmate, and
    - (ii) allow the inmate to have their words re-recorded until the inmate is satisfied that the recording accurately captures their words; and

- (b) if the words are recorded in writing,
  - (i) record the words in the official language of Nunavut they were provided in,
  - (ii) read back the recorded words to the inmate, and
  - (iii) make any corrections to the written record that the inmate requests until the inmate is satisfied that the recording accurately captures their words.

#### Designation

(5) The Director may designate persons for the purposes of subparagraph (3)(b)(ii) either individually or by class.

### Corrections Division

#### Establishment of Corrections Division

**2.** (1) The Corrections Division is established within the Department of Justice to be responsible for probation and adult correctional services throughout Nunavut.

#### Purpose of Corrections Division

(2) The purpose of the Corrections Division is the correction and rehabilitation of probationers and inmates, the protection of the community and the promotion of safe and healthy communities by

- (a) providing, when requested by a court, information respecting the background of an offender before sentencing;
- (b) providing probation supervision and programs to probationers;
- (c) providing for the safe custody and confinement of inmates in correctional centres;
- (d) providing supervision and culturally appropriate rehabilitation of probationers and inmates;
- (e) providing culturally appropriate training and counselling to probationers and inmates with a view to their rehabilitation;
- (f) fostering the responsibility and self-reliance of probationers and inmates; and
- (g) promoting and assisting programs designed to prevent and diminish crime within a community.

#### Guiding principles

**3.** The following principles guide the Corrections Division in achieving its purpose:

- (a) probationers and inmates retain the rights of all members of society except those that are, as a consequence of the sentence, lawfully and necessarily removed or restricted;
- (b) correctional policies, programs and practices respect ethnic, cultural, linguistic and gender differences and are responsive to the special needs of Inuit and other indigenous groups, women, persons requiring mental health care and other groups;
- (c) correctional policies, programs and practices respect the heritage and values of Inuit and the rights of Inuit under the Nunavut Land Claims Agreement.

#### Appointment of Director

**4.** The Minister shall appoint a Director of Corrections.

#### Powers and duties of Director

**5.** (1) The Director shall

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- (a) administer the affairs of the Corrections Division and develop and supervise correctional programs; and
- (b) exercise the powers and perform the duties of the Director in accordance with this Act and the regulations.

### Delegation of duties

(2) The Director may, in writing, delegate any of the powers and duties of the Director under this Act.

### Directives

(3) The Director may, in accordance with the regulations, issue written directives to Wardens and other employees respecting the exercise of their powers and the performance of their duties.

### Complying with directives

(4) Wardens and other employees shall comply with the directives issued under subsection (3).

### *Statutory Instruments Act*

(5) The *Statutory Instruments Act* does not apply to directives issued under subsection (3).

## Probation

### Appointment of probation officers

**6.** (1) The Director shall appoint the probation officers that are necessary for the purpose of this Act.

### Director is probation officer

(2) The Director is, by virtue of the Director's office, a probation officer.

### Duties of Director respecting probation

**7.** The Director shall

- (a) supervise and direct the provision of services to probationers; and
- (b) ensure the quality of services provided to probationers.

### Officer of court

**8.** (1) A probation officer is an officer of every court in Nunavut.

### Duties of probation officer

(2) A probation officer shall

- (a) take reasonable measures to ensure that a probationer understands
  - (i) the probation order,
  - (ii) the substance of subsections 732.2(3) and (5) and section 733.1 of the *Criminal Code*, and
  - (iii) the procedure for applying under subsection 732.2(3) of the *Criminal Code* for a change to the probation order;
- (b) supervise the conduct of a probationer in accordance with the conditions contained in the probation order;
- (c) provide guidance to a probationer;
- (d) if it appears to the probation officer that a probation order requires modification, make an application to the court under subsection 732.2(3) of the *Criminal Code*;
- (e) plan and carry out probation programs under the direction of the Director; and
- (f) perform other duties imposed by the Director.

Investigation by probation officer

**9.** No probation officer shall make an investigation for the purpose of determining the guilt or innocence of a person.

Correctional Centres

Establishment and discontinuance of correctional centres

**10.** (1) The Minister may, by order, establish or discontinue correctional centres.

Continuance as correctional centres

(2) Buildings and premises and the lands appurtenant to the buildings and premises in use as or designated as a prison, jail, work camp or other centre for the lawful custody of persons are continued as correctional centres.

Deemed to be part of correctional centre

(3) Every street, highway or public thoroughfare along or across which an inmate passes while going to or returning from work and every place where an inmate is employed or is undergoing training or treatment shall be deemed to be a part of the correctional centre in which the inmate is confined for the purposes of this Act.

Appointment of Warden

**11.** (1) The Director shall appoint a Warden for each correctional centre.

Powers and duties of Warden

(2) A Warden shall, under the direction of the Director, exercise the powers and perform the duties of a Warden in accordance with this Act and the regulations.

Delegation of power and duties

(3) A Warden may, in writing, designate an employee to exercise the powers and fulfil the duties of the Warden under this Act.

Responsibility of Warden

(4) A Warden is responsible for the safe custody and proper care of the inmates of the correctional centre for which the Warden is appointed.

Admission and custody of inmates

**12.** A Warden

- (a) shall receive into the correctional centre every person delivered under lawful authority for confinement in the correctional centre; and
- (b) is responsible for the custody and control of a person referred to in paragraph (a) until the term of the confinement is completed or the person is lawfully transferred or discharged.

Information for inmates

**13.** (1) On admission to a correctional centre, the Warden shall ensure that each inmate is provided with full information concerning

- (a) the rules respecting discipline;
- (b) the rules governing the treatment of inmates;
- (c) the rights of inmates, including earnings;
- (d) grievance procedures;
- (e) accessing lawyers;

- (f) correctional programs, including how to apply for them;
- (g) communications and visits; and
- (h) any prescribed information.

Same

- (2) Information referred to in subsection (1) must
  - (a) be provided in the cell or dormitory of the inmate; and
  - (b) be in writing.

Additional information

(3) The Warden may, in addition to the information referred to in subsection (1), provide any other information that, in the opinion of the Warden, is relevant to inmates.

Reasonable use of force

**14.** (1) Employees may use a reasonable degree and means of force for any of the following purposes:

- (a) to prevent injury or death to a person;
- (b) to prevent property damage;
- (c) to prevent an inmate from escaping;
- (d) to maintain custody and control of an inmate.

Prohibition

- (2) No employee shall
  - (a) use force in a circumstance other than one referred to in subsection (1);
  - (b) use force unnecessarily with inmates; or
  - (c) use more force than is reasonably necessary.

Provocation

- (3) No employee shall act in a manner calculated to provoke an inmate.

Searches and seizures

- 15.** (1) The Warden shall ensure that
- (a) if required by the regulations, persons entering or present in a correctional centre are searched;
  - (b) if required by the regulations, an area of the correctional centre is searched; and
  - (c) an object or substance prescribed for the purposes of subsection 16(2) that is found during a search under this section is seized.

Same

- (2) An employee may, within a correctional centre,
  - (a) conduct any search that is required or permitted by the regulations; and
  - (b) seize any object or substance that is prescribed for the purposes of subsection 16(2) that is found during a search under this section.

Limit of seizures

- (3) Paragraphs (1)(c) and (2)(b) do not apply to
  - (a) anything in the possession of an employee who is required or permitted to possess it in the course of their duties; and
  - (b) an object or substance that the person in question is permitted to possess in accordance with the regulations.

Return of property

(4) Anything seized under this section shall be returned to the person from whom it was seized, unless

- (a) the person may not lawfully possess it; or
- (b) the regulations prohibit its return.

Disciplinary rules

**16.** (1) No inmate shall

- (a) have in their possession anything that they are prohibited from possessing by law;
- (b) give to or receive from any person anything that the inmate is prohibited from possessing by law;
- (c) do anything that is prohibited by the regulations;
- (d) counsel or assist another inmate to do anything prohibited by this subsection or the regulations; or
- (e) attempt to do anything prohibited by this subsection or the regulations.

Contraband

(2) An inmate is prohibited from possessing any prescribed object or substance except in accordance with the regulations.

Contravention

(3) Any breach of this section shall be dealt with in accordance with sections 17 to 21.

Duty to intervene

**17.** (1) If an employee believes on reasonable grounds that an inmate has breached or is breaching a rule referred to in subsection 16(1) or the regulations, the employee shall,

- (a) if the circumstances allow
  - (i) stop the breach from occurring, or
  - (ii) give the inmate an opportunity to stop the breach from occurring or give the inmate an opportunity to correct the breach if the person aggrieved by the breach consents; and
- (b) as soon as practicable, inform the inmate
  - (i) of the rule under subsection 16(1) or the regulations that was breached, and
  - (ii) what the breach consists of.

Designated employees

(2) The Director shall designate employees, either individually or by class, to receive charge reports and issue charges.

Written charge report

(3) If, in the opinion of the employee referred to in subsection (1), the breach has not been or cannot be satisfactorily resolved by the actions described in that subsection, the employee shall, as soon as practicable, file a written charge report with an employee designated under subsection (2), setting out

- (a) the rule that is alleged to have been breached;
- (b) the circumstances surrounding the alleged breach; and
- (c) the action taken, if any, under paragraph (1)(a).

#### Forwarding alleged breaches

**18.** (1) An employee designated under subsection 17(2) who receives a report under subsection 17(3) shall issue and forward to the Warden charges for any breaches of subsection 16(1) or the regulations that are alleged in the report that, in the opinion of the employee, warrant disciplinary action against the inmate.

#### Written notice

(2) On receipt of charges under subsection (1), the Warden shall provide to the inmate a written notice of

- (a) the charges;
- (b) a summary of the evidence alleged against the inmate that is sufficient to ensure procedural fairness of the hearing;
- (c) whether or not the inmate may be subject to segregation or a loss of remission as a result of the charges; and
- (d) if the inmate may be subject to segregation or a loss of remission as a result of the charges, their right to request a person described in subsection (2.1) to hear the charges.

#### Inmate's request

(2.1) If an inmate is notified they may be subject to segregation or a loss of remission as a result of the charges, they may, within 24 hours of the notice, make a written request to the Warden that the charges be heard by a Disciplinary Board composed of one person who

- (a) is not employed by the Corrections Division; and
- (b) has a demonstrated knowledge of
  - (i) Inuit societal values, and
  - (ii) Nunavut's correctional system.

#### Appointing requested person

(2.2) If an inmate makes a request in accordance with subsection (2.1),

- (a) the Warden shall forward the request to the Director; and
- (b) the Director shall appoint a person described in that subsection as the Disciplinary Board to hear the charges.

#### Appointing Disciplinary Board

(2.3) If an inmate is not notified that they may be subject to segregation or a loss of remission as a result of the alleged charges, or if an inmate does not make a request in accordance with subsection (2.1), the Warden shall constitute a Disciplinary Board composed of either

- (a) the Warden and one to two other employees of the correctional centre designated by the Warden; or
- (b) two to three employees of the correctional centre designated by the Warden.

#### Hearing

(3) Subject to subsections (4) and (5), within 72 hours after charges are forwarded under subsection (1), but in any case no more than 10 working days after the alleged breach, the Disciplinary Board shall hold a hearing with respect to the charges.

#### Request for extension

(4) An inmate subject to hearing under this section may, in writing, request the Director to extend the 10 working day time limit in subsection (3) by up to five working days.



Approval by Director

(5) The Director may extend the 10 working day time limit in subsection (3), in accordance with a request under subsection (4).

Rights of inmate

(6) No finding shall be made against an inmate charged with a breach of subsection 16(1) or the regulations unless the inmate

- (a) has received written notice in accordance with subsection (2);
- (b) has been given an opportunity to appear personally at the hearing; and
- (c) has been given an opportunity to make a full answer and defence to the charge, including being given an opportunity to
  - (i) be represented by a lawyer or other representative,
  - (ii) subject to subsection (7), examine and cross-examine witnesses, and
  - (iii) introduce witnesses and written material in denial of the breach or in mitigation of corrective measures.

Examination of witnesses

(7) If the Disciplinary Board has reason to believe that allowing the inmate or the inmate's representative to examine or cross-examine a witness would result in the witness being harmed or intimidated, the Disciplinary Board shall

- (a) not allow the inmate or representative to examine or cross-examine the witness; and
- (b) give the inmate the opportunity to name a lawyer or another representative to examine or cross-examine the witness.

Corrective measures

**19.** (1) Subject to this section and the regulations, if the Disciplinary Board determines an inmate has breached subsection 16(1) or the regulations, it may

- (a) warn or reprimand the inmate;
- (b) impose a temporary or permanent loss of the right to participate in activities or programs, other than communications and visitations under sections 26 and 27;
- (c) assign additional duties to the inmate to be done during up to four leisure hours;
- (d) order the inmate to be segregated from other inmates for a period of up to 15 days;
- (e) impose a forfeiture of
  - (i) money earned for any work done in the correctional centre, to a maximum of 30 days earnings, or
  - (ii) all or part of the remission that stands to the credit of the inmate; or
- (f) suspend a corrective measure referred to in paragraphs (b) to (e).

Exception

(1.1) A Disciplinary Board constituted under subsection 18(2.3) may not impose a corrective measure under paragraph (1)(d) or subparagraph (1)(e)(ii) unless

- (a) the inmate was notified under subsection 18(2) that they may be subject to segregation or a loss of remission as a result of the charges;
- (b) the inmate was notified of their right to request a person described in subsection 18(2.1) to hear the charges; and
- (c) the inmate did not make a request in accordance with subsection 18(2.1).

#### Considerations

(2) In determining the appropriate corrective measure under subsection (1), the Disciplinary Board shall take into account the best interest of the inmate and the inmate's rehabilitation.

#### Notice to inmate

(3) Subject to sections 20 and 21, a decision made under subsection (1) is effective when notice of the decision is provided to the inmate.

#### Limitation on cumulative corrective measures

(4) The maximum corrective measures set out in subsection (1) apply as maximum cumulative corrective measures for all the breaches of subsection 16(1) or the regulations related to the same incident.

#### Limitation on corrective measures

(5) Following a hearing, no corrective measure shall be given to an inmate under paragraphs (1)(a) to (c), (e) or (f) if an inmate was placed in segregated confinement cells due to the incident that lead to a hearing and

- (a) no order was made under paragraph (1)(d); or
- (b) the inmate has since been confined in segregated confinement cells for an uninterrupted period longer than the period ordered under paragraph (1)(d), unless the period ordered is for 15 days.

#### Credit for pre-hearing confinement

(6) Subject to sections 22 and 23, the inmate shall only be confined in segregated confinement cells after a hearing for a period, if any, calculated by subtracting any uninterrupted period that the inmate was confined in segregated confinement cells after being so confined due to the incident that lead to the hearing from the period ordered under paragraph (1)(d).

#### Uninterrupted period

(7) If an inmate is confined in segregated confinement cells more than once due to the same incident, the periods of such confinement are deemed to be one uninterrupted period for the purposes of subsection (5) and (6).

#### Appeal to Warden

**20.** (1) An inmate subject to a decision under subsection 19(1) made by a Disciplinary Board constituted under subsection 18(2.3) that did not include the Warden may, in writing, appeal the decision of the Disciplinary Board to the Warden within seven days after being notified of the decision.

#### Decision suspended

(2) The decision of the Disciplinary Board is suspended pending appeal under this section.

#### Power of Warden

(3) The Warden shall confirm, vary or quash the decision of the Disciplinary Board within seven working days after receiving the appeal.

#### Duties and powers

- (4) Prior to confirming or varying a decision under subsection (3), the Warden
- (a) shall review the decision of the Disciplinary Board;
  - (b) shall consider any arguments put forth by the inmate; and
  - (c) may investigate or cause an investigation to be made into the matter.

Notice to inmate

(5) The Warden shall notify the inmate of any action taken under subsection (3).

Request for review

- 21.** (1) An inmate may, in writing, request the Investigations Officer to review
- (a) a decision under subsection 19(1) made by a Disciplinary Board composed of one person appointed under paragraph 18(2.2)(b), within seven days after being notified of the decision;
  - (b) a decision under subsection 19(1) made by a Disciplinary Board constituted under subsection 18(2.3) that included the Warden, within seven days after being notified of the decision; or
  - (c) a decision made under subsection 20(3), within seven days after being notified under subsection 20(5).

Decision suspended

(2) A decision referred to in subsection (1) is suspended pending review until the decision of the Director under subsection (4) or the Investigations Officer under subsection (8) is communicated to the inmate.

Review and recommendations – minor disciplinary breaches

(3) If the decision that is subject to review under this section does not include ordering segregation or imposing a forfeiture of remission, the Investigations Officer shall

- (a) review the decision; and
- (b) provide recommendations concerning the decision to the Deputy Minister and the Director.

Decision of Director

(4) After receiving the recommendations of the Investigations Officer, the Director may accept or reject any or all of the recommendations of the Investigations Officer.

Accepted recommendation binding

(5) A recommendation of the Investigations Officer under this section to confirm, vary or quash a decision that is accepted by the Director is binding.

Varying decision

(6) Following the decision made under subsection (4) and subject to subsection (5), the Director may vary or quash any part of the decision referred to in subsection (1).

Notice

(7) The Director shall provide the Deputy Minister, the Warden and the inmate the following in writing:

- (a) the decision to accept or reject the recommendations of the Investigations Officer, including reasons for rejecting a recommendation;
- (b) the recommendations and reasons of the Investigations Officer, or a summary of those recommendations and reasons.

Review and decision – serious disciplinary breaches

(8) If the decision that is subject to review under this section includes ordering segregation or imposing a forfeiture of remission, the Investigations Officer shall

- (a) review the decision; and
- (b) confirm, vary or quash the decision with written reasons.

Director's input

(9) With respect to a review under subsection (8), the Director may provide to the Investigations Officer any submissions and evidence the Director considers pertinent to the review of a decision by the Investigations Officer under this section.

Same

(10) The Investigations Officer shall, in making a decision under subsection (8), consider any submissions and evidence provided by the Director.

Notice

(11) The Investigations Officer shall ensure a copy of a decision made under subsection (8) is provided to

- (a) the inmate subject to the decision;
- (b) the Warden;
- (c) the Director.

Decision binding

(12) A decision of the Investigations Officer under subsection (8) is binding.

Administrative segregation

**22.** (1) Subject to subsection (2) and (3), a Warden may order that an inmate be segregated from other inmates if the Warden believes on reasonable grounds that the inmate

- (a) is endangering or is likely to endanger another person;
- (b) is jeopardizing or is likely to jeopardize the management, operation or security of the correction centre;
- (c) would be or is likely to be at a risk of serious harm, including self-harm, if not segregated;
- (d) must be segregated for medical or public health reasons; or
- (e) has hidden in their body anything they are prohibited from possessing under subsection 16(2).

Alternatives

(2) An inmate shall not be segregated under this section if there exist other safe and reasonable alternatives for addressing the circumstances for which the inmate may be segregated.

Least restrictive

(3) Segregation under this section shall be only as restrictive as is necessary to address the circumstances for which the inmate has been segregated, and in particular consideration must be given to allowing

- (a) participation in programs with other inmates or a subgroup of other inmates; or
- (b) otherwise interacting with a subgroup of other inmates.

Reasons

(4) The Warden shall, within 24 hours after making an order under subsection (1), provide the inmate the reason for their segregation in writing.

Initial period

(5) An order made under subsection (1) is valid for an initial period of three days.

Extension

(6) The Warden may extend an order made under subsection (1) for up to seven days at a time if the Warden

- (a) reviews the circumstances of the segregation before the expiry of
  - (i) the initial period referred to in subsection (5), or
  - (ii) an extension made under this subsection;
- (b) determines that one of the circumstances referred to in paragraphs (1)(a) to (d) exists at the time of review; and
- (c) determines that the segregation should continue.

Start date of extension

(7) An extension made under subsection (6) begins on the day after the Warden makes the order to extend.

Reasons for extension

(8) The Warden shall, within 24 hours after making an order to extend under subsection (6), provide the inmate, in writing,

- (a) the reason for their continued segregation;
- (b) the period of time during which they will be segregated;
- (c) the reason for the length of time in segregation;
- (d) inform the inmate of their right to request a review under subsection (9);
- (e) if applicable, inform the inmate that the order has been forwarded to the Investigations Officer for review under section 23.

Review by Warden

(9) An inmate subject to an order to extend under subsection (6) may request a review of the extension by submitting to the Warden, in writing, reasons why the segregation should

- (a) not continue;
- (b) be for a shorter period of time; or
- (c) be less restrictive.

Same

(10) The Warden shall consider any review request made under subsection (9) and may confirm, vary or quash the order.

Review of administrative segregation by Investigations Officer

**23.** (1) When a Warden makes an order to extend under subsection 22(6) that would have the effect of an inmate being segregated under section 22 for a total at least five days, including the initial period of three days, or the Warden makes any subsequent order to extend, the Warden shall immediately forward a copy of the order and the written reasons for it to the Investigations Officer.

Forwarding request for review

(2) If a Warden receives a request for review from an inmate under subsection 22(9), the Warden shall

- (a) immediately forward a copy of the request to the Investigations Officer; and
- (b) immediately upon making a decision under subsection 22(10), forward a copy of the decision to the Investigations Officer

Director's input

(3) The Director may provide to the Investigations Officer any submissions and evidence the Director considers pertinent to the review of an order by the Investigations Officer under this section.

Same

(4) The Investigations Officer shall, in making a decision under this section, consider any submissions and evidence provided by the Director.

Decision of Investigations Officer

(5) The Investigations Officer shall, as soon as practicable but in any case no more than five working days after receiving an order forwarded under subsection (1),

- (a) review the circumstances surrounding the segregation; and
- (b) confirm, vary or quash the order with written reasons.

Remaining seized

(6) When the segregation of an inmate under this section continues after the Investigations Officer has made a decision under subsection (5), the Investigations Officer remains seized of the matter for the duration of the segregation, and shall, at least every five working days,

- (a) review the circumstances surrounding the segregation; and
- (b) confirm, vary or quash the order of segregation with written reasons.

Notice

(7) The Investigations Officer shall ensure a copy of a decision made under subsection (5) or (6) is provided to

- (a) the inmate subject to the decision;
- (b) the Warden;
- (c) the Director.

Decision binding

(8) A decision of the Investigations Officer under this section is binding.

Warden's discretion during review

(9) The Warden may, at any time while the Investigations Officer is seized of an order of segregation under this section, quash the order or vary it to be less restrictive.

Notice

(10) The Warden shall immediately forward a copy of any decision made under subsection (9) to the Investigations Officer.

Physical restraint device

**24.** (1) No employee shall use a physical restraint device unless

- (a) the use is authorized by the regulations;
- (b) the device has been reviewed and approved by the Director; and
- (c) the circumstances require the use of the device to
  - (i) prevent injury or death to a person,
  - (ii) prevent property damage,
  - (iii) prevent an inmate from escaping, or
  - (iv) maintain custody or control of an inmate;
- (d) the device is employed using the least restrictive measures required to meet the objectives referred to in paragraph (c); and
- (e) the device is used in a manner that maintains the dignity, safety and security of the inmate being restrained.

#### Medical examination if restraint more than four hours

(2) If an inmate has been kept under physical restraint for a period of four hours or longer, the Warden shall ensure that a medical examination of the inmate is conducted as soon as practicable.

#### Definition

**25.** (1) In this section, for greater certainty, "mental health issues" includes suicidal ideations and serious self-harming intentions.

#### Mental health

(2) When an employee designated under subsection 17(2) is considering issuing charges under subsection 18(1), a Warden is considering placing an inmate in administrative segregation or an employee is considering using a physical restraint device, they shall consider whether any mental health issues are the root cause of the behaviour of the inmate and determine whether the behaviour should be treated as a mental health issue.

#### Reasonable alternatives

(3) If a Warden or employee has reason to believe that mental health issues are the root cause of the behaviour of an inmate, the Warden or employee must explore all reasonable alternatives, if any, for addressing the mental health issues prior to an inmate being charged under subsection 18(1) or being placed in administrative segregation or under physical restraint.

#### Mental health counselling and medical examination

(4) If a Warden has reason to believe that mental health issues are the root cause of the behaviour of an inmate charged under subsection 18(1) or placed in administrative segregation or under physical restraint, the Warden shall ensure that the inmate is referred to mental health counselling and a health care professional as soon as practicable.

#### Mental health counselling in general

(5) The Warden shall ensure that inmates suffering from mental health issues are permitted to access the mental health counselling they require.

#### Communications

**26.** (1) Subject to sections 28 and 29, every inmate may, in accordance with the regulations, communicate by letter, telephone or other means approved by the Director

- (a) on admission to a correctional centre;
- (b) after admission, at least once a week; and
- (c) at any reasonable time
  - (i) with the inmate's lawyer, or
  - (ii) with any person for the purpose of providing or arranging for payment of a fine that will procure the inmate's release from the correctional centre.

#### Cost of communication by telephone

(2) The cost of communication by an inmate by telephone shall be borne by the inmate except in circumstances that in the opinion of the Warden would promote the rehabilitation of the inmate, in which case the cost shall be paid from funds appropriated to the Corrections Division.

#### Special communications

(3) The Warden may at any reasonable time allow an inmate to receive letters, telephone calls and other communications that in the opinion of the Warden are likely to promote the best interests of the inmate or family of the inmate.

#### Visits by certain persons

**27.** (1) Subject to section 28, the following persons may visit an inmate for a private interview at any reasonable time, with the consent of the inmate:

- (a) a person arranging the payment of a fine for the inmate;
- (b) the lawyer of the inmate;
- (c) the Commissioner;
- (d) a member of the Legislative Assembly or the Parliament of Canada;
- (e) a peace officer, in the course of their duties;
- (f) a person providing religious or spiritual counselling;
- (g) a recognized community Elder;
- (h) a representative from a non-governmental organization or a community agency as defined in the regulations.

#### Other visits

(2) The Warden may at any reasonable time allow any person to visit an inmate if, in the opinion of the Warden, the visitation is likely to promote the best interests of the inmate or the family of the inmate.

#### Restriction on communications and visits

**28.** (1) Subject to subsection (2), the Warden may restrict the right of an inmate to communicate in accordance with section 26 or receive a visit in accordance with section 27 if

- (a) the Warden has reasonable grounds to believe that restricting the right is necessary to prevent the inmate from
  - (i) being involved in illegal activities,
  - (ii) harassing or causing harm to others, or
  - (iii) participating in or promoting an activity that may jeopardize the safety, security, or operation of the correctional centre;
- (b) the Warden has reasonable grounds to believe that not restricting the right would
  - (i) jeopardize the safety, security or operation of the correctional centre, or
  - (ii) jeopardize the safety or security of persons in or planning to visit the correctional centre;
- (c) a court order restricts or prohibits communication or contact between the inmate and the other person; or
- (d) the other person has indicated to the Warden they do not wish to communicate with the inmate.

#### Communications with lawyer

(2) Subsection (1) applies with respect to communications and visits with the lawyer of an inmate as follows:

- (a) communication by mail or other physical delivery may only be restricted by requiring the inmate to open a received communication in the presence of an employee, who may only inspect non-paper items;
- (b) communication by phone, or by telecommunications means generally approved by the Director, may not be restricted;
- (c) visits may only be restricted to the extent required, in the opinion of the Warden, to prevent harm to any person.

#### Inmate informed if communication restricted

(3) The Warden shall inform an inmate in writing as soon as practicable when the inmate's communication or visitation rights have been restricted and provide reasons for the restriction.



Same rights and conditions of visitation

(4) For greater certainty, an inmate in segregated confinement has the same rights and conditions of visitation as other inmates.

Monitoring communications and visits

- 29.** (1) In this section, a reference to monitoring communications includes a reference to
- (a) opening or examining a parcel, mail or other communication
    - (i) received at the correctional centre addressed to or intended for an inmate, or
    - (ii) that an inmate wishes to send;
  - (b) withholding, detaining or otherwise dealing with a parcel, mail or other communication intended for or sent by an inmate; or
  - (c) listening in on or recording a conversation between the inmate and another person, whether by telephone, in person or by other means.

Same

(2) Subject to subsection (3), an employee may monitor the communications of an inmate if a Warden has reason to believe the inmate is communicating for the purpose of

- (a) being involved in illegal activities;
- (b) harassing or causing harm to others; or
- (c) participating in or promoting an activity that may jeopardize the safety, security, or operation of the correctional centre.

Monitoring prohibited

(3) An employee shall not monitor the communications of an inmate

- (a) during a visit with a person described in subsection 27(1), the Investigations Officer or the Deputy Investigations Officer;
- (b) during a telephone call with the lawyer of the inmate, the Investigations Officer or the Deputy Investigations Officer;
- (c) if the communication is sent by or to the lawyer of the inmate, the Investigations Officer or the Deputy Investigations Officer, except for the purpose of withholding or detaining communications that the employee has reason to believe includes items the inmate is not allowed to possess under subsection 16(2); and
- (d) if the communication is a letter sent by or to the Director, the Commissioner or a member of the Legislative Assembly or the Parliament of Canada.

Notice of monitoring

(4) An employee that monitors the communications of an inmate shall advise, as soon as practicable,

- (a) the inmate;
- (b) a person whose conversation with the inmate is being or has been listened to by the employee; and
- (c) the lawyer of the inmate or the Investigations Officer, in the case any communication sent by or to a lawyer for the inmate, the Investigations Officer or the Deputy Investigations Officer, as the case may be, has been withheld or detained.

### Transfer of Inmates

#### Transfer of inmates to provinces and other territories

**30.** (1) The Director may, in writing, order an inmate to be transferred to another correctional centre, or any lawful place of confinement operated by a province or another territory, in order to provide for the appropriate rehabilitation of an inmate.

#### Order for transfer

(2) An order made under subsection (1)

- (a) is sufficient authority to a Warden and any peace officer to act in conformity with the order;
- (b) must be accompanied by the document that authorized the confinement of the inmate in the correctional centre from which the inmate is being transferred; and
- (c) if the order is in respect of a transfer to a province or another territory, must be made in accordance with an agreement made under subsection 31(1).

#### Transfer to penitentiary

(3) The Director may, in writing and in accordance with an agreement made under subsection 31(2), order the transfer of an inmate to an appropriate penitentiary in Canada if, in the opinion of the Director, the inmate

- (a) does not appear to benefit from the correctional programs that are available in Nunavut;
- (b) is a disruptive influence on other inmates; or
- (c) requires a higher degree of security than is available in Nunavut.

#### Agreements with provinces and territories

**31.** (1) The Minister may, on behalf of the Government of Nunavut, enter into written agreements with the government of a province or another territory

- (a) for the confinement in a correctional centre of persons who, in the absence of the agreement, would be required to serve their sentences in the province or other territory;
- (b) for the confinement in lawful places of confinement operated by the province or other territory of persons who, in the absence of the agreement, would be required to serve their sentences in a correctional centre; and
- (c) for transfers for the purposes of paragraphs (a) and (b).

#### Agreements with Government of Canada

(2) The Minister may, on behalf of the Government of Nunavut, enter into written agreements with the Government of Canada

- (a) for the confinement in a correctional centre of persons convicted in Canada who, in the absence of the agreement, would be required to serve their sentences in a penitentiary;
- (b) for the confinement in penitentiaries or other institutions under the direction or supervision of Correctional Service of Canada, of persons sentenced or committed under the criminal law of Canada to imprisonment for more than six months but less than two years; and
- (c) for transfers for the purposes of paragraphs (a) and (b).

#### Acceptance of inmates

**32.** The lawful authority under which the person transferred to a correctional centre for confinement in accordance with an agreement made under section 31 is authorized to be confined by the sending jurisdiction is lawful authority for confinement in Nunavut for the purposes of this Act.

### Correctional Programs

#### Establishment and operation of correctional programs

**33.** (1) The Director shall, subject to this Act and the regulations, establish and operate correctional programs for the rehabilitation of inmates.

#### Scope

- (2) A correctional program may be operated
- (a) within a correctional centre;
  - (b) in a community; or
  - (c) on the land.

#### Cultural and linguistic relevance

- (3) Correctional programs must be compatible with the background and cultural heritage of the inmates participating in the programs, and in particular
- (a) all correctional programs must, when sufficient demand exists, be made available in the official languages of Nunavut, and in particular the Inuit Language;
  - (b) in selecting or designing correctional programs, consideration must be given to the importance of Inuit societal values and culture;
  - (c) a program that provides traditional Inuit counselling to inmates must be offered at each correctional centre; and
  - (d) correctional programs operated on the land must
    - (i) provide traditional Inuit counselling to inmates, and
    - (ii) teach Inuit cultural skills.

#### Release for participation

(4) The Director may, subject to the regulations, authorize the release of an inmate from a correctional centre for a period not exceeding 60 days in order for the inmate to participate in a correctional program operated in a community or on the land.

#### Renewal

(5) The Director may renew the authorization under subsection (4) for additional periods of 60 days.

#### Eligibility

**34.** (1) Subject to subsection (2), if a correctional program operated in a community or on the land has been established for a correctional centre, every inmate in the correctional centre is eligible to apply to the Warden for permission to enter the program.

#### Restriction

- (2) The Warden may restrict the eligibility of an inmate or a class of inmates to apply for a correctional program if the Warden has reasonable grounds to believe that participation in the program would result in
- (a) the inmate or class of inmates being involved in illegal activities;
  - (b) the inmate or class of inmates harassing or causing harm to others; or
  - (c) the safety, security, or operation of the correctional centre being jeopardized.

#### Application of Act and regulations

(3) An inmate who participates in a correctional program in a community or on the land continues to be subject to this Act and the regulations.

#### Earnings of inmate

**35.** (1) When an inmate released under a correctional program in the community is gainfully employed, the employer of the inmate shall forward the total earnings of the inmate, less deductions required by law, to the Warden of the correctional centre.

#### Exception

(2) Subsection (1) does not apply to earnings related to a correctional program that has as its object the management of finances.

#### Disbursement of earnings

**36.** (1) The Warden shall, on behalf of an inmate, disburse earnings received under subsection 35(1) in the following order of priority:

- (a) to the Government of Nunavut, the cost of food, lodging and travel of the inmate in an amount not exceeding the prescribed amount;
- (b) restitution payments ordered by the court;
- (c) the maintenance and support of dependants of the inmate in the prescribed amount.

#### Surplus after disbursement

(2) If a surplus remains after payment under subsection (1), the Warden shall credit the surplus to the account of inmate to be paid to the inmate when they are discharged from the correctional centre.

#### Exception

**37.** Despite section 36, the Director may vary the priority of disbursing the earnings of an inmate received under subsection 35(1) in a way that would further the rehabilitation of the inmate or assist the support of the dependants of the inmate.

#### Demand for account

**38.** (1) An inmate may demand an account from the Warden of all money earned by the inmate that is received and disbursed by the Warden.

#### Account

(2) When an account is demanded under subsection (1), the Warden shall render the account to the inmate within a reasonable time after the demand has been made.

### Investigations Officer

#### Appointment of Investigations Officer

**39.** (1) The Commissioner in Executive Council, on the recommendation of the Minister, shall appoint an Investigations Officer.

#### Not member of public service

(2) The Investigations Officer is not a member of the public service.

### Superannuation

(3) Despite subsection (2), the Investigations Officer is deemed to be a member of the public service for the purposes of

- (a) superannuation; and
- (b) health and insurance plans provided as a benefit to members of the public service.

### Duties of Investigations Officer

(4) The Investigations Officer shall perform the duties set out in this Act and the duties assigned to the Investigations Officer by any other Act.

### Additional assignments

(5) The Investigations Officer may undertake any assignment the Investigations Officer considers appropriate that is requested by the Minister.

### Term of office

(6) The Investigations Officer shall hold office during good behaviour for a term of five years and may be reappointed for a further term or terms.

### Continuation after expiry

(7) The Investigations Officer continues to hold office after the expiry of the term until reappointed, or until a successor is appointed.

### Removal

(8) The Investigations Officer may be removed at any time for cause or incapacity by the Commissioner in Executive Council, on the recommendation of the Minister.

### Resignation

(9) The Investigations Officer may resign at any time by notifying the Minister in writing at least 30 days before the effective date of the resignation.

### Waiver

(10) The Minister may waive the 30 day notice period under subsection (9) in full or in part.

### Deputy Investigations Officer

**40.** (1) The Commissioner in Executive Council, on the recommendation of the Minister, may appoint a Deputy Investigations Officer.

### Term of office

(2) The Deputy Investigations Officer holds office for a term not exceeding five years.

### Public service

(3) Subsections 39(2) and (3) apply to the Deputy Investigations Officer.

### Duties

- (4) The Deputy Investigations Officer shall
- (a) assist the Investigations Officers in the performance of the duties of the Investigations Officer; and
  - (b) act in the place of the Investigations Officer if the Investigations Officer is absent or unable to act, or if the office of the Investigations Officer is vacant.

#### Acting Investigations Officer

**41.** (1) If the Investigations Officer and Deputy Investigations Officer are absent or unable to act, or the offices are vacant, an Acting Investigations Officer may be appointed to act in the place of the Investigations Officer by

- (a) the Commissioner in Executive Council; or
- (b) the Minister, for a non-renewable period not exceeding one month.

#### Term of acting Investigations Officer

(2) Subject to paragraph (1)(b), an acting Investigations Officer holds office until either

- (a) the Investigations Officer or Deputy Investigations Officer returns to office after being absent or unable to act; or
- (b) a new Investigations Officer or Deputy Investigations Officer is appointed.

#### Special Investigations Officer

**42.** (1) If, for any reason, the Investigations Officer determines that the Investigations Officer should not act in respect of any particular matter under this Act, a special Investigations Officer may be appointed to act in the place of the Investigations Officer in respect of that matter by

- (a) the Commissioner in Executive Council; or
- (b) the Minister, for a non-renewable period not exceeding one month.

#### Term

(2) Subject to paragraph (1)(b), a special Investigations Officer holds office until the conclusion of the matter in respect of which they have been appointed.

#### Oath

**43.** Before undertaking the duties of office, the Investigations Officer, the Deputy Investigations Officer, or an acting or special Investigations Officer shall take an oath to perform faithfully and impartially the duties of the office and not to disclose any confidential information or advice except in accordance with this Act.

#### Commissioner for oaths

**44.** The Investigations Officer and Deputy Investigations Officer are, by virtue of their offices, commissioners for taking oaths within and outside Nunavut.

#### Staff

**45.** (1) The Investigations Officer may hire, following a competition, such staff as are necessary for the proper conduct of the Investigations Officer's duties.

#### Exception

(2) Despite subsection (1), the Investigations Officer may, without a competition,

- (a) hire a person as a casual or relief employee, as defined in the *Public Service Act*; or
- (b) transfer a person in the circumstances referred to in paragraphs 12(2)(b) to (d) of the *Public Service Act*.

#### Inuit employment policies and merit based criteria

(3) Section 9 of the *Public Service Act* and directives issued under subsection 6(3) of that Act apply, with the necessary modifications, to the hiring of staff under this section.

Not members of public service

(4) Staff hired under this section are not members of the public service as defined in the *Public Service Act*.

Superannuation and benefits

(5) Despite subsection (4), the staff hired under this section are deemed to be members of the public service for the purposes of

- (a) superannuation; and
- (b) health and insurance plans provided as a benefit to members of the public service.

Remuneration

(6) The remuneration of a person hired under this section must be substantially similar to the remuneration of members of the public service employed in a comparable capacity.

Engaging of assistance

**46.** The Investigations Officer may engage lawyers, experts and other persons to assist in carrying out the functions of the office.

Appropriations

**47.** All expenditures required for the purposes of the Investigations Officer, including the Deputy Investigations Officer, any staff hired under section 45 and persons engaged under section 46, shall be paid out of moneys appropriated for that purpose.

Exclusion of liability

**48.** (1) The Investigations Officer, the Deputy Investigations Officer and any person assisting them under this Act or any other Act are not liable for loss or damage caused by anything done or not done in good faith in the performance of the duties or in the exercise of the powers of the Investigations Officer or Deputy Investigations Officer.

Persons providing information

(2) No person who, in good faith, provides information to or testifies before the Investigations Officer or the Deputy Investigations Officer under this Act or any other Act is liable for loss or damage caused by the provision of the information or the testimony.

Duties of Investigations Officer

**49.** (1) The Investigations Officer shall

- (a) conduct reviews requested or mandated under sections 21, 23 and 59;
- (b) conduct investigations; and
- (c) prepare and submit to the Minister an annual report within six months after the end of each fiscal year that includes
  - (i) the number of reviews and investigations conducted by the Investigations Officer during the year,
  - (ii) a summary of the reviews and investigations conducted during the fiscal year, including any recommendations made, and
  - (iii) any other matter the Investigations Officer considers relevant in respect of the Investigations Officer's activities under this Act.

Annual report to be tabled

(2) The Minister shall table the report submitted under paragraph (1)(c) 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.

### Investigations and Reviews

Investigation by Investigations Officer

- 50.** (1) The Investigations Officer
- (a) may conduct an investigation at the Investigations Officer's own initiative; and
  - (b) shall conduct an investigation when requested by the Director or the Minister.

Subject matter

(2) Investigations under this section may cover any matter that, in the opinion of the Investigations Officer, is relevant to this Act or its purposes.

Report

(3) As soon as practicable after conducting an investigation, the Investigations Officer shall report, in writing, on the results of the investigation to the Deputy Minister and the Director.

Contents of report

- (4) A report on an investigation under subsection (3)
- (a) must include the Investigations Officer's conclusions respecting the subject matter of the investigation, and the reasons for those conclusions; and
  - (b) may include recommendations on any matter relevant to the investigation.

Conduct of review or investigation

- 51.** (1) In conducting a review or investigation, the Investigations Officer
- (a) has the powers of a Board under the *Public Inquiries Act*;
  - (b) shall have access to every part of a correctional centre and to every person confined in a correctional centre and may
    - (i) enter the correctional centre,
    - (ii) examine all papers, documents, vouchers, records, books and other things belonging to the correctional centre,
    - (iii) investigate the conduct of any employee or of any person found in the correctional centre,
    - (iv) summon and interview any inmate,
    - (v) by written order summon any employee and examine the employee under oath on any matter
      - (A) relating to a contravention of this Act or the regulations, or
      - (B) affecting the interests of the correctional centre, and
    - (vi) order to be brought to the Investigations Officer books, papers and writings that are in the correctional centre or in the possession of an employee or inmate; and
  - (c) is not subject to technical rules of evidence.

Exception

(2) Despite subsection (1), the Investigations Officer does not have the power to require an inmate to give evidence or produce documents and things.



#### Public or private review or investigation

(3) The Investigations Officer shall conduct a review or investigation in public, unless the Investigations Officer determines that the review or investigation should be conducted in private either in full or in part, taking into consideration the following factors:

- (a) the public interest;
- (b) the impact on the inmate or inmates subject to the review or investigation, including the impact on their privacy rights; and
- (c) the safety and security of correctional centres.

#### Disclosure required

(4) Subject to subsection (5), a person who has custody or control of information to which the Investigations Officer is entitled under subsection (1) shall provide the information to the Investigations Officer on the Investigations Officer's request.

#### Process

(5) Despite subsections (1) and (2), in a review or investigation, the Investigations Officer shall, as far as practicable,

- (a) ensure that every person who has information relevant to the matter being reviewed or investigated is given an opportunity to provide that information to the Investigations Officer;
- (b) obtain information informally and expeditiously; and
- (c) protect the identity of the person who made the disclosure, any person who is the subject of the disclosure, and any witnesses.

#### Restriction

(6) The Investigations Officer may not require the provision of information, the production of a document or thing or the giving of an answer by a person if the provision, production or answer would

- (a) interfere with or impede the investigation or prosecution of an offence;
- (b) reveal the substance of deliberations of the Executive Council; or
- (c) reveal information that is subject to solicitor-client privilege.

#### Deputy Investigations Officer

(7) The Deputy Investigations Officer may exercise any of the powers of and is subject to the same requirements as the Investigations Officer under this section when assisting the Investigations Officer in conducting a review or investigation.

#### Offences

**52.** (1) Despite any other provision of this Act, if the Investigations Officer has reasonable grounds to believe that an offence has been committed, the Investigations Officer shall cease the review or investigation on the matter and, subject to subsection 54(3), refer the matter to the appropriate law enforcement officials.

#### Health and safety matters

(1.1) Despite any other provision of this Act other than subsection 54(3), the Investigations Officer shall inform one or more of the following public officers of any health or safety issue in a correctional centre that, in the opinion of the Investigations Officer, should be brought to the attention of the public officer:

- (a) a building official under the *Building Code Act*;
- (b) an environmental health officer under the *Public Health Act*;
- (c) a safety officer under the *Safety Act*;

- (d) an inspector under the *Technical Standards and Safety Act*;
- (e) a public officer with powers with respect to health and safety matters that are similar to those of the persons listed in paragraph (a) to (d).

#### Restrictions on disciplinary action

(2) Despite any other provision of this Act, a review or investigation by the Investigations Officer may not result in

- (a) more severe disciplinary action against an inmate, in the case of a review under section 21;
- (b) longer or more restrictive administrative segregation for an inmate, in the case of a review under section 23; or
- (c) disciplinary action against an inmate, in all other cases.

#### Right of entry

**53.** (1) The Investigations Officer, the Deputy Investigations Officer and any other person acting on behalf or under the direction of the Investigations Officer may, in connection with a review or investigation, enter any premises occupied by a department as defined in the *Public Service Act*.

#### Notice of entry

(2) Upon entering premises under subsection (1), the Investigations Officer, the Deputy Investigations Officer or other person acting on behalf or under the direction of the Investigations Officer must identify themselves to the employee in charge of the premises and allow the employee to notify the responsible deputy head as defined in the *Public Service Act*.

#### Evidence not compellable

**54.** (1) The Investigations Officer, the Deputy Investigations Officer and any other person acting on behalf or under the direction of the Investigations Officer is not a compellable witness in respect of any information or evidence received in a review or investigation under this Act.

#### Necessary disclosure

(2) The Investigations Officer may disclose, or authorize the Deputy Investigations Officer or another person acting on behalf or under the direction of the Investigations Officer to disclose, information that the Investigations Officer considers necessary

- (a) to further a review or investigation by the Investigations Officer or by appropriate law enforcement officials; or
- (b) to establish grounds for conclusions and recommendations made in a report issued at the conclusion of a review or investigation by the Investigations Officer.

#### Self-incriminating evidence

(3) Despite paragraph (2)(a), the Investigations Officer may not disclose or authorize the disclosure to law enforcement officials of information consisting of evidence that could be used against the person who provided the evidence in the investigation or prosecution of an offence.

#### Paramountcy

**55.** If there is an inconsistency or conflict between sections 51 or 54 and the *Access to Information and Protection of Privacy Act* or the regulations made under that Act, those sections prevail to the extent of the inconsistency or conflict.

Not subject to review

**56.** Decisions made by the Investigations Officer, other than those made under subsection 21(8) or section 23, are not subject to appeal to, or review by, any court.

## Grievances

Designated employees

**57.** (1) The Director shall designate employees, either individually or by class, to receive grievances.

Presenting grievances

- (2) An inmate may, in writing, present a grievance,
- (a) with respect to a decision affecting the terms and conditions of the inmate's incarceration, within seven days after being notified of the decision; and
  - (b) with respect to any matter that is causing the inmate distress or dissatisfaction, at any time.

Who receives grievance

- (3) A grievance under subsection (2) may be presented to
- (a) an employee designated under subsection (1); or
  - (b) the Warden.

Response

(4) A person referred to in subsection (3) receiving a grievance under subsection (2) shall, in writing, provide a response to the inmate within seven working days after receiving the grievance, detailing any action that has been or will be taken as a result of the grievance.

Appeal to Warden

**58.** (1) An inmate may, in writing, appeal a response given under section 57 by an employee designated under subsection 57(1) to the Warden.

Response

(2) The Warden shall, in writing, provide a response to the inmate within five working days after receiving an appeal under subsection (1), detailing any action that has been or will be taken as a result of the grievance.

Duties

- (3) Prior to providing a response under subsection (2), the Warden
- (a) shall review the response provided under section 57; and
  - (b) shall consider any arguments put forth by the inmate.

Request for review

**59.** (1) An inmate who receives a response from the Warden under section 57 or 58 may, in writing, request the Investigations Officer to review the matter within seven days after being provided the response.

Grievance respecting Warden

(2) If an inmate wishes to present a grievance referred to in subsection 57(2) that relates to the action or inaction of the Warden, the inmate may present the grievance directly to the Investigations Officer in writing.

#### Review and recommendations

(3) The Investigations Officer shall review the matter referred to in subsection (1) or the grievance presented under subsection (2) and provide recommendations concerning the matter to the Deputy Minister and the Director.

#### Decision of Director

(4) After receiving the recommendations of the Investigations Officer, the Director may accept or reject the recommendations of the Investigations Officer.

#### Accepted recommendation binding

(5) A recommendation of the Investigations Officer under this section that is accepted by the Director is binding.

#### Varying decision

(6) Following the decision made under subsection (4) and subject to subsection (5), the Director may vary or quash any part of the response referred to in subsection (1).

#### Response

(7) Within seven working days after the decision made under subsection (4) and subject to subsection (5), the Director shall provide a response to the inmate, detailing any action that has been or will be taken as a result of the grievance presented under subsection (2).

#### Notice

(8) The Director shall inform the Deputy Minister, the Warden and the inmate of a decision made under subsection (4) or (6) or a response made under subsection (7).

### Protections Against Reprisals

#### Giving evidence or providing assistance

**60.** (1) No person shall take a reprisal against any person for giving evidence or providing assistance in a review or investigation, unless the person, without a valid excuse,

- (a) interferes with or impedes the investigation or prosecution of an offence;
- (b) reveals the substance of deliberations of the Executive Council; or
- (c) reveals information that is subject to solicitor-client privilege.

#### Grievances, appeals and reviews

(2) No person shall take a reprisal against an inmate for presenting a grievance, appealing a decision or requesting a review under this Act, unless the reprisal is a disciplinary measure and the Investigations Officer finds that the grievance, appeal or request is

- (a) made in bad faith; or
- (b) frivolous or vexatious.

#### Reprisal defined

(3) For the purposes of this section, reprisal includes

- (a) a disciplinary measure;
- (b) any measure adversely affecting the employment or working conditions of a person, including a reprimand, suspension, demotion, dismissal or denial of appropriate work;
- (c) intimidation or coercion;
- (d) commencement of legal action;
- (e) terminating a contract;

- (f) a pecuniary or other penalty; and
- (g) a threat to take any of the measures referred to in paragraphs (a) to (f).

#### Offences

(4) A person is not guilty of an offence under another Act by reason of complying with a request or requirement of the Investigations Officer or Deputy Investigations Officer to give evidence or provide assistance in a review or investigation.

### Inuit Societal Values Committee

#### Establishment

**61.** (1) The Inuit Societal Values Committee is established.

#### Composition

(2) The Committee is composed of the following members appointed by the Minister:

- (a) one resident of Nunavut;
- (b) one resident of the Qikiqtani region;
- (c) one resident of the Kivalliq region;
- (d) one resident of the Kitikmeot region;
- (e) one nominee of the Director;
- (f) two Elders who are persons enrolled under Article 35 of the Nunavut Land Claims Agreement;
- (g) up to two other members who are residents of Nunavut, as the Minister considers appropriate.

#### Nominations by Inuit organizations

(3) Prior to making an appointment under paragraphs (2)(a) to (d), the Minister shall solicit nominations as follows:

- (a) a nomination from Nunavut Tunngavik Incorporated for the appointment under paragraph (2)(a);
- (b) a nomination from Qikiqtani Inuit Association for the appointment under paragraph (2)(b);
- (c) a nomination from Kivalliq Inuit Association for the appointment under paragraph (2)(c);
- (d) a nomination from Kitikmeot Inuit Association for the appointment under paragraph (2)(d).

#### Appointment following nominations

(4) When the Minister receives a nomination solicited under subsection (3) within 90 days after soliciting the nomination, the Minister may only appoint the nominated person, and may revoke the appointment of that person without the recommendation of the nominating organization.

#### Quorum

(5) The quorum for the Committee is five members.

#### Powers

**62.** (1) The Committee may

- (a) receive and hear submissions and suggestions from individuals and groups concerning the incorporation of Inuit perspectives, Inuit societal values and Inuit traditional knowledge in the corrections system, and in particular in programs offered in the corrections system;

- (b) receive requests from the Director or the Investigations Officer under subsection (3);
- (c) recommend policies and practices to better incorporate Inuit perspectives, Inuit societal values and Inuit traditional knowledge in the corrections system; and
- (d) recommend new correctional programs or amendments to existing correctional programs to better incorporate Inuit perspectives, Inuit societal values and Inuit traditional knowledge in the corrections system.

#### Director's and Investigations Officer's input

(2) Prior to making any recommendation, the Committee shall seek the input of the Director and Investigations Officer on the matter, and provide a reasonable time for the Director and Investigations Officer to provide input on the matter.

#### Director's and Investigations Officer's request

(3) The Director and the Investigations Officer, individually or jointly, may submit a request to the Committee respecting any matter on which the Director or Investigations Officer requires the input of the Committee.

#### Personal information

(4) A request under subsection (3) shall not include personal information, as defined in the *Access to Information and Protection of Privacy Act*.

#### Confidential request

(5) A request under subsection (3) may be made on a confidential basis if it contains information that is not publicly available.

#### Maintaining confidentiality

- (6) If a request under subsection (3) has been made on a confidential basis,
- (a) the members of the Committee shall maintain the confidentiality of the request and the information contained in the request; and
  - (b) the Committee may only make confidential recommendations to the Director, the Investigations Officer or the Minister.

#### Honoraria

**63.** The members of the Committee shall be paid honoraria in accordance with directives issued under section 78 of the *Financial Administration Act*.

#### Annual report

- 64.** (1) Within six months after the end of each fiscal year, the Committee shall submit to the Minister an annual report consisting of
- (a) a general summary of the activities of the Committee during the fiscal year;
  - (b) a summary of the requests made under subsection 62(3) during the fiscal year, other than those made on a confidential basis;
  - (c) the number of requests made under subsection 62(3) during the fiscal year that were made on a confidential basis;
  - (d) a summary of input received by the Committee from the Director and the Investigations Officer under subsection 62(2), other than input which has been provided on a confidential basis; and
  - (e) a summary of the recommendations made by the Committee during the fiscal year, other than those made in response to requests under subsection 62(3) that were made on a confidential basis.

#### Inclusion in Minister's report

(2) The Minister shall table the annual report of the Committee in the Legislative Assembly with the annual report referred to in section 70.

### National Parole Board

#### National Parole Board

**65.** (1) The National Parole Board is authorized to exercise in Nunavut the jurisdiction and discretion described in section 107 and 108 of the *Corrections and Conditional Release Act* (Canada).

#### Eligibility for parole

(2) An inmate who is serving a sentence for an offence under an Act is eligible to apply for parole from, and be paroled by, the National Parole Board in accordance with subsection (1).

### Release Planning

#### Release planning

**66.** (1) Release planning is an integral part of the social and correctional services of Nunavut.

#### Establishment

(2) The Director shall, subject to this Act and the regulations, provide release planning to probationers and inmates in view of

- (a) assisting them to make a satisfactory adjustment to community living; and
- (b) preventing recidivism.

#### Duty of Director

**67.** (1) The Director shall co-ordinate and encourage the interrelated activities of correctional centres and probation programs that are concerned with the problems of probationers and inmates at all stages of their sentences and after their release.

#### Notice of release

(2) The Warden shall, whenever practicable, notify probation officers and other persons involved in the reintegration of an inmate into the community of the plans to release the inmate into the community.

#### Information sharing

**68.** Any information, including personal information as defined in the *Access to Information and Protection of Privacy Act*, that is in the control of Corrections Division may be

- (a) disclosed and used within the Government of Nunavut for the purpose of providing programs or services to former probationers and inmates; and
- (b) disclosed to a person or body with whom an agreement has been made under section 69, to the extent permitted by that agreement.

#### Information sharing agreements

**69.** (1) The Minister may enter into agreements for the collection, use, disclosure and exchange of personal information with any person or body providing programs or services to former probationers and inmates.

### Content

(2) An agreement entered into under subsection (1) shall provide that only personal information that is necessary for the provision of programs or services to former probationers and inmates may be collected, used or disclosed under the agreement.

### Confidentiality

(3) An agreement under this section shall provide that personal information collected, used or disclosed under it is confidential and shall establish mechanisms for maintaining the confidentiality and security of the information.

## Annual Report

### Annual report

**70.** (1) Within six months after the end of each fiscal year, the Director shall submit to the Minister an annual report consisting of a general summary of the activities of the Corrections Division during the fiscal year.

### Recommendations

(1.1) Without restricting the generality of subsection (1), a report under this section shall include, by subject matter,

- (a) the number of recommendations made by the Investigations Officer to the Director under this Act;
- (b) the number of those recommendations that were accepted by the Director; and
- (c) the number of those recommendations that were not accepted by the Director.

### Disciplinary matters

(1.2) Without restricting the generality of subsection (1), a report under this section shall include, for each correctional centre,

- (a) the number of disciplinary hearings and appeals;
- (b) the number of disciplinary hearings and appeals that resulted in each of the corrective measures listed in paragraphs 19(1)(a) to (f), including subparagraphs 19(1)(e)(i) and (ii);
- (c) with respect to recommendations made under subsection 21(3), the information referred to in paragraphs (1.1)(a) to (c);
- (d) the number of decisions that were reviewed by the Investigations Officer under subsection 21(8); and
- (e) the number of decisions that were, under subsection 21(8),
  - (i) confirmed by the Investigations Officer,
  - (ii) varied by the Investigations Officer, or
  - (iii) quashed by the Investigations Officer.

### Report to be tabled

(2) The Minister shall table the report submitted under subsection (1) 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.

## Report on independence of Disciplinary Boards

### Review of Disciplinary Boards

**70.1.** (1) The Investigations Officer shall, within two years of the date of appointment of the first Investigations Officer,



- (a) review, in consultation with the following, the feasibility of independent, or more independent, Disciplinary Boards:
  - (i) the Inuit Societal Values Committee established under section 61,
  - (ii) the Director,
  - (iii) any other person or body that, in the opinion of the Investigations Officer, should be consulted; and
- (b) provide the Minister with a report of the review, including recommendations for
  - (i) the composition of Disciplinary Boards,
  - (ii) their mandate,
  - (iii) their operations, and
  - (iv) the role of the Investigations Officer with respect to them.

#### Report to be tabled

(2) The Minister shall table the report submitted under paragraph (1)(b) 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.

#### Repeal

(3) This section is repealed the day following the day on which the report referred to in subsection (2) is tabled in the Legislative Assembly.

### Offences and Punishment

#### Application

**71.** (1) This section does not apply to inmates.

#### Prohibitions

- (2) No person shall, without the prior written consent of the Warden,
- (a) give, leave or do any other act with the intent that an inmate will receive an object or substance that the inmate is prohibited from possessing by law;
  - (b) take or receive from an inmate for any purpose an object or substance that is prohibited by law from being taken or received;
  - (c) buy from or sell to an inmate any object or substance;
  - (d) take or receive a reward from an inmate for themselves or for another person;
  - (e) employ an inmate except as part of an approved correctional program; or
  - (f) knowingly allow to be done any act referred to in this section.

#### Exception

(3) For greater certainty, a person may employ an inmate who is serving a discontinuous term of imprisonment during the times that the inmate is not required to be in custody.

#### Trespass and loitering

(4) No person shall trespass on or loiter in a correctional centre, other than in a place deemed to be part of a correctional centre under subsection 10(3).

#### Detrimental conduct

(5) No person shall conduct themselves in a manner that is detrimental to the good order and discipline of a correctional centre.

Counseling or assisting

(6) No person shall counsel or assist another person, including an inmate, to contravene a condition of a correctional program, probation or parole.

Freeing an inmate

(7) No person shall free an inmate from a correctional centre without a lawful excuse.

Offences and punishment

**72.** A person, other than an inmate, who contravenes one of the following provisions or a prescribed provision of the regulations is guilty of an offence and liable on summary conviction to a fine of \$5,000, to imprisonment for a term of three months, or to both a fine and imprisonment:

- (a) section 14;
- (b) subsections 17(1) and (3);
- (c) section 24;
- (d) subsection 29(3);
- (e) section 60;
- (f) section 71.

Regulations

Regulations

**73.** (1) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) respecting the powers and duties of the Investigations Officer, the Deputy Investigations Officer, the Director, the Warden and employees;
- (b) respecting directives issued under subsection 5(3);
- (c) respecting the rights of inmates;
- (d) respecting the provision of health care services to inmates;
- (e) respecting the discharge of inmates;
- (f) prescribing information to be provided to inmates under paragraph 13(1)(h);
- (g) respecting searches, seizures and return of property under section 15, including the circumstances under which a person may possess an object or substance that would otherwise be subject to seizure;
- (h) respecting remissions, including rules and procedures for the grant of remissions;
- (i) respecting disciplinary rules for the purposes of section 16, including
  - (i) prescribing disciplinary rules,
  - (ii) limiting the corrective measures that may be undertaken under subsection 19(1) with respect to specific disciplinary rules under subsection 16(1) or the regulations,
  - (iii) prescribing objects or substances, or classes of objects or substances, that are prohibited under subsection 16(2), and
  - (iv) respecting circumstances under which an inmate may possess an object or substance that is otherwise prohibited under subsection 16(2);
- (j) respecting the use of physical restraint devices, including authorizing their use for the purposes of paragraph 24(1)(a);
- (k) respecting communications by inmates referred to in subsection 26(1);
- (l) defining non-governmental organizations and community agencies referred to in paragraph 27(1)(h);
- (m) respecting the establishment and operation of correctional programs referred to in subsection 33(1);
- (n) respecting the release of an inmate under subsection 33(4);
- (o) respecting the establishment and operation of a fund for the welfare of inmates;

- (p) respecting earnings of inmates, including
  - (i) cash incentives and the conditions for receiving cash incentives, and
  - (ii) contributions to the fund established under paragraph (o);
- (q) prescribing the amount to be paid to the Government of Nunavut under paragraph 36(1)(a);
- (r) prescribing the amount of maintenance and support of dependants of an inmate under paragraph 36(1)(c);
- (s) respecting religious worship and other spiritual activities of inmates;
- (t) respecting restrictions on the activities of persons in correctional centres, other than the Investigations Officer, the Deputy Investigations Officer and other persons acting on the Investigations Officer's behalf;
- (u) respecting the organization and procedures of the Committee;
- (v) prescribing the provisions of the regulations to which section 72 applies; and
- (w) that the Minister considers necessary for carrying out the provisions of this Act.

Application of regulations

- (2) Regulations made under paragraph (1)(a), (g) and (t) may
  - (a) establish classes of persons for the purposes of the regulations;
  - (b) include different provisions for different classes of persons; and
  - (c) provide that they apply differently or do not apply in places that have been deemed to be part of a correctional centre under subsection 10(3).

**Transitional**

**73.1. (1) If the *Public Health Act*, S.Nu. 2016,c.13, has not come into force prior to the coming into force of paragraph 52(1.1)(b), that paragraph is deemed to include a reference to a Health Officer under the *Public Health Act*, R.S.N.W.T. 1988,c.P-12, until the *Public Health Act*, S.Nu. 2016,c.13, comes into force.**

**(2) If the *Technical Standards and Safety Act* has not come into force prior to the coming into force of paragraph 52(1.1)(d), that paragraph is deemed to include a reference to inspectors under the *Boilers and Pressure Vessels Act*, the *Electrical Protection Act* and the *Gas Protection Act* until the *Technical Standards and Safety Act* comes into force.**

**Repeal**

**74. The *Corrections Act*, R.S.N.W.T. 1988, c.C-22, is repealed.**

**Commencement**

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