

Chapter 13

PUBLIC HEALTH ACT *(Assented to November 8, 2016)*

Recognizing that Nunavummiut expect high standards of health and well-being;

Affirming that the health and well-being of Nunavummiut is of paramount importance to the Government of Nunavut;

Affirming that Nunavut should have a modern and comprehensive public health system that establishes measures relating to health protection and promotion, population health assessment, public health surveillance, disease and injury prevention and public health emergency preparedness and response;

Recognizing that the public health system should not only protect people in Nunavut from the threats of disease and other health hazards but also promote the health and well-being of Nunavummiut and the establishment of conditions favourable to the maintenance and enhancement of their health and well-being;

Recognizing that Inuit societal values are reflected in this Act and important to the protection and promotion of public health;

Recognizing that public health measures are not directed at providing medical care for specific individuals, except insofar as such actions are taken for the benefit of Nunavummiut as a whole or a group of individuals;

Recognizing that there must be effective ways to prevent and to protect against risks to public health;

Recognizing that, in addition to the government, individuals and corporations have a responsibility to act in the interest of public health;

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

PART 1

PURPOSES, INTERPRETATION AND GENERAL PRINCIPLES

Purposes

Primary duty

1. (1) The Government of Nunavut has a duty to raise the level of the health and well-being of Nunavummiut.

Implementation of duty

(2) This Act must be administered in accordance with the duty referred to in subsection (1) and decisions made and actions taken under this Act must serve to protect, maintain or enhance the health status and well-being of people in Nunavut and shall not focus on individuals unless it is for the benefit of Nunavut as a whole or a group of individuals.

Purposes of Act

2. The purposes of this Act are to protect and promote the overall health and well-being of people in Nunavut by

- (a) taking public health measures, including measures relating to health promotion, health protection, population health assessment, public health surveillance, disease and injury prevention, and public health emergency preparedness and response; and
- (b) promoting policies, processes, activities and behaviours that enable Nunavummiut to increase their control over and improve their health.

Interpretation

Definitions

3. In this Act,

"by-law officer" means a by-law officer appointed under the *Hamlets Act* or the *Cities, Towns and Villages Act*; (*agent d'exécution des règlements*)

"camp" includes a mining, prospecting, fishing, dredging, construction, research or other camp in which any person is employed; (*camp*)

"Chief Public Health Officer" means the person appointed as the Chief Public Health Officer for Nunavut under section 44; (*administrateur en chef de la santé publique*)

"conservation officer" means a conservation officer appointed under the *Wildlife Act*; (*agent de conservation*)

"consumer product" means a product, including its components, packaging, parts or accessories, that is designed or intended to be used by consumers for personal purposes; (*produit de consommation*)

"Court" means the Nunavut Court of Justice; (*Cour*)

"Deputy Chief Public Health Officer" means the person appointed as the Deputy Chief Public Health Officer for Nunavut under section 45; (*sous-administrateur en chef de la santé publique*)

"environmental health officer" means a person appointed as an environmental health officer under section 47, the Chief Public Health Officer, the Deputy Chief Public Health Officer and a medical health officer; (*agent en hygiène de l'environnement*)

"food" means food or drink, including water, for human consumption and includes an ingredient of food or drink for human consumption; (*aliment*)

"health care professional" means one of the following and includes, where applicable, a person outside Nunavut who is not licenced, registered or entitled to practice in Nunavut, but is entitled to practice a comparable profession under the laws of a province or another territory:

- (a) a medical practitioner,
- (b) a person licensed to practice dentistry under the *Dental Profession Act*,
- (c) a nurse,
- (d) a midwife registered in the Midwifery Register under the *Midwifery Profession Act*, or
- (e) a laboratory technologist registered with the Canadian Society for Medical Laboratory Science; (*professionnel de la santé*)

"health facility" means a hospital, health centre, continuing care facility or other medical facility, and includes any suitable facility, whether medical or not, that is capable of being used to isolate, quarantine or treat a person with a communicable disease; (*établissement de santé*)

"health hazard" means

- (a) a condition, a substance, a thing or an activity that
 - (i) threatens or may reasonably be expected to threaten public health, or
 - (ii) interferes or may reasonably be expected to interfere with the suppression of diseases, injuries, contaminants or other risks to public health, or
- (b) a prescribed condition, substance, thing or activity; (*danger pour la santé*)

"health information" means information in any format collected or maintained under this Act concerning the health of an individual, living or deceased, and includes any of the following information:

- (a) information about a pathogen with which an individual is infected or to which the individual has been exposed,
- (b) information about other health conditions to which an individual is subject,
- (c) information about health services provided to an individual,
- (d) information about individual's health care history,
- (e) information that is collected in the course of, or incidental to, the provision of health services to an individual,
- (f) information in respect of the examination or testing of an individual by, or on referral from, a health care professional,
- (g) information in respect of an individual's receipt, donation or transfusion of cellular material, an organ, tissue, blood or a blood product,
- (h) an identifying number, symbol or other particular assigned to an individual in respect of health services or health information;
(*renseignements sur la santé*)

"institution" means

- (a) a hospital, personal care home, correctional centre or other similar residential facility,
- (b) a school, day-care or other similar institution, or
- (c) a prescribed institution or class of institutions; (*institution*)

"isolation" means the isolation of a person or animal with a communicable disease or suspected of having a communicable disease from contact with non-infected persons or animals; (*isolement*)

"medical health officer" means a person appointed as a medical health officer under section 46, the Chief Public Health Officer and the Deputy Chief Public Health Officer; (*médecin-hygiéniste*)

"nurse" means a registered nurse, a nurse practitioner or a temporary certificate holder as defined in the *Nursing Act*; (*infirmière ou infirmier*)

"outbreak" means a cluster of cases of a condition, usually a communicable disease, that is linked by person, place or time, and includes a cluster of cases where no specific cause has been identified but there is a condition that appears to be linked by person, place or time; (*éclosion*)

"personal health information" means health information related to a specific, identified individual or that could identify a specific individual; (*renseignements personnels sur la santé*)

"personal service" means any of the following services:

- (a) hair dressing, barbering, beauty treatment, skin care, cosmetic treatment, manicure or pedicure,
- (b) acupuncture, acupressure, or massage,
- (c) electrology, laser treatment, or tanning,
- (d) tattooing, body piercing or body modification,
- (e) other prescribed service; (*services aux particuliers*)

"public conveyance" means any vehicle or other conveyance that transports persons for payment, including a scheduled or chartered aircraft, a boat or ship that carries passengers, a bus or a taxi; (*moyen de transport public*)

"public health emergency" means an occurrence or imminent threat that poses a serious risk to public health; (*urgence sanitaire publique*)

"public health surveillance" means the systematic, on-going collection, collation and analysis of epidemiological and other information related to the health and well-being of people in Nunavut; (*surveillance de la santé publique*)

"quarantine" means the separation from contact with others of a person or animal who may have been exposed to a communicable disease to determine if he, she or it is infected; (*mise en quarantaine*)

"reportable event" means an event that must be reported to the Chief Public Health Officer under section 12 or 13; (*événement à déclaration obligatoire*)

"sell" includes offering for sale and possessing for the purpose of sale; (*vendre*)

"sewage" includes waste water, human waste or waste of a like nature contained in or discharging from kitchen, bathing, toilet, laundry or similar facilities, or a privy; (*eaux d'égout*)

"sewage system" means a system for the collection, transportation, pumping, treatment and final disposition of sewage and includes all the facilities and equipment used for the operation of the system; (*système de collecte des eaux d'égout*)

"thing" includes a plant or other organism, other than a human or a live animal; (*chose*)

"virulent communicable disease" means

- (a) a prescribed virulent communicable disease; or
- (b) an emerging communicable disease that the Chief Public Health Officer considers to be virulent; (*maladie virulente transmissible*)

"waste disposal system" means a system for the collection, transportation, and disposal of garbage, refuse and other waste and includes all the facilities and equipment used for the operation of the system; (*système d'élimination des déchets*)

"water supply system" means a system that supplies water, by any means, either exclusively or partly for human consumption and includes the water source, the treatment facilities, the means of storage and the means of delivery; (*système d'approvisionnement en eau*)

"zoonotic disease" means

- (a) rabies;
- (b) a prescribed zoonotic disease; or
- (c) an emerging zoonotic disease that the Chief Public Health Officer considers to be a risk to public health. (*zoonose*)

Act binds Government

4. This Act binds the Government of Nunavut.

Inconsistent enactments

5. (1) Subject to subsections (2) and (3), if a provision of this Act or the regulations is inconsistent with or in conflict with a provision of another enactment, the provisions of this Act and the regulations prevail.

Exception

(2) If a provision of this Act or the regulations is inconsistent with or in conflict with a provision of the *Emergency Measures Act*, the *Access to Information and Protection of Privacy Act* or the *Representative for Children and Youth Act*, the provisions of those Acts and the regulations made under them prevail.

Tobacco Control Act

(3) If a provision of this Act or the regulations is inconsistent with or in conflict with a provision of *Tobacco Control Act*, the provision that has the most restrictive effect on use, advertisement or sale prevails.

Inuit Societal Values

Inuit societal values

6. (1) The public health system in Nunavut shall be based on Inuit societal values.

Incorporation of Inuit societal values in public health system

(2) The Minister and the Chief Public Health Officer must ensure that Inuit societal values are incorporated throughout the public health system of Nunavut.

Specific Inuit societal values

- (3) For greater certainty, the following Inuit societal values apply under this Act:
- (a) *Inuuqatigiitsiarniq*, that is respecting others, relationships and caring for people;

- (b) *Tunnganarniq*, that is fostering good spirit by being open, welcoming and inclusive;
- (c) *Pijitsirniq*, that is serving and providing for family or community, or both;
- (d) *Aajiiqatigiinni*, that is decision making through discussion and consensus;
- (e) *Pilimmaksarniq* or *Pijariuqsarniq*, that is the development of skills through practice, effort and action;
- (f) *Piliriqatigiinni* or *Ikajuqtigiinni*, that is working together for a common cause;
- (g) *Qanuqtuurniq*, that is being innovative and resourceful; and
- (h) *Avatittinnik Kamatsiarniq*, that is respect and care for the land, animals and the environment.

PART 2

HEALTH PROMOTION AND DISEASE PREVENTION

Promotion of health and wellness

7. The Chief Public Health Officer may establish programs for the promotion of health and wellness.

Immunization program

8. The Chief Public Health Officer may establish an immunization program in Nunavut.

PART 3

POPULATION HEALTH ASSESSMENT AND SURVEILLANCE AND PROTECTION OF PRIVACY

Public Health Surveillance

Public health surveillance

- 9.** The Chief Public Health Officer may establish programs for
- (a) public health surveillance; and
 - (b) the on-going measurement of
 - (i) the health and well-being of people in Nunavut, and
 - (ii) determinants of health.

Epidemiological studies

10. The Chief Public Health Officer may carry out epidemiological studies.

Investigations

11. (1) Subject to subsection (2), a medical health officer may investigate the cause of the occurrence of, or any illness or death related to a risk to public health, including

- (a) a communicable disease;
- (b) a non-communicable disease; or
- (c) a reportable event.

Coroners Act

(2) An investigation under subsection (1) shall not interfere with an investigation or inquest under the *Coroners Act*.

Reporting Events

Duty of health care professional to report

12. (1) A health care professional or other prescribed person shall, in accordance with the regulations, make a report to the Chief Public Health Officer after he or she first becomes aware of the following reportable events during the course of his or her duties, unless he or she knows that the reportable event has already been reported in accordance with this section or section 13:

- (a) the occurrence of a prescribed communicable disease;
- (b) the occurrence or suspected occurrence of a virulent communicable disease;
- (c) the failure of a person infected with a virulent communicable disease to comply with his or her treatment;
- (d) the occurrence of an infection if
 - (i) the infection could have been transmitted by the receipt or donation of cells, tissues, organs, blood or blood products, and
 - (ii) there are reasonable grounds to believe that the infected person received or gave a donation of cells, tissues, organs, blood or blood products;
- (e) the occurrence of a prescribed condition, prescribed health hazard or prescribed event;
- (f) the occurrence of a disease, infection or condition that the health care professional or other prescribed person has reason to believe could be a risk to public health;
- (g) the death of a person with a disease, infection or condition or related to an event referred to in paragraphs (a) to (f).

Patient advice

(2) A health care professional, other than a laboratory technologist or other prescribed person, who reports a reportable event shall advise the person about whom the report is being made to take reasonable steps to prevent the transmission of the disease or infection while the Chief Public Health Officer considers the report and determines whether to start investigating and managing the public health aspects of the case.

Duty to report zoonotic diseases

13. A veterinarian, conservation officer or by-law officer shall, in accordance with the regulations, make a report to the Chief Public Health Officer as soon as practicable after he or she first becomes aware of the following reportable events during the course of his or her duties, unless he or she knows that the reportable event has already been reported in accordance with this section or section 12:

- (a) the occurrence or suspected occurrence of a zoonotic disease in an animal;
- (b) the occurrence of a human in contact with an animal that is known or suspected of being infected with a pathogen that causes a zoonotic disease.

Contents of report

14. (1) A report under section 12 or 13 must include

- (a) the name, profession and contact information of the person making the report;
- (b) the name, sex, age, contact information, or other identifying information, and location or last known location of any person about whom the report is being made;
- (c) the name, sex, age, or other identifying information, and location or last known location of any animal about whom the report is being made;
- (d) in the case of an animal, the name and contact information of the owner of the animal, if known;
- (e) a description of the nature and type of the reportable event; and
- (f) any other prescribed information.

Additional information

(2) After receiving a report under section 12 or 13, the Chief Public Health Officer may request the person making the report or any person referred to in the report or any person in charge of a health or veterinary facility referred to in the report to provide any additional information possessed by or under the control of the person that the Chief Public Health Officer considers necessary with respect to

- (a) the person or animal about whom the report is being made;
- (b) any persons who may have been in contact with or exposed to the person or animal;
- (c) the examination, diagnosis or treatment;
- (d) the reportable event; and
- (e) any advice given under subsection 12(2).

Duty to comply

(3) A person to whom a request for information is directed under subsection (2) shall comply with the request as soon as practicable.

Public Health Records

Keeping records

15. (1) The Chief Public Health Officer shall establish and maintain records, in such written or electronic form as he or she considers appropriate, of

- (a) all reportable events, including all information obtained under sections 12 to 14; and
- (b) any other health information collected by or in the possession of the Chief Public Health Officer that he or she considers appropriate.

Registers and databases

(2) The Chief Public Health Officer may organize the information referred to in subsection (1) into such separate registers or databases as he or she considers appropriate.

Protection of Privacy

Prohibition

16. (1) No person shall collect, access, use or disclose health information contrary to this Act.

Authorized persons

(2) The following persons have authority to access, use or disclose health information under this Act:

- (a) the Chief Public Health Officer;
- (b) a person acting under the direction and on behalf of the Chief Public Health Officer;
- (c) a person specifically authorized in this Act.

Authorized purposes

(3) Health information may only be accessed, used or disclosed under this Act for one or more of the following purposes:

- (a) any purpose for which it may be collected under subsection 17(1);
- (b) any purpose authorized under section 19;
- (c) any purpose authorized under the *Access to Information and Protection of Privacy Act*.

Personal health information

(4) Under this Act, personal health information may only be

- (a) accessed or used to the extent that it is necessary for the purposes authorized under subsection (3); and
- (b) disclosed to the extent that is necessary for the purposes authorized under paragraphs (3)(b) and (c).

Security arrangements

(5) For greater certainty, section 42 of the *Access to Information and Protection of Privacy Act* applies to personal health information.

Collection of health information

17. (1) The Chief Public Health Officer, or a person acting under the direction and on behalf of the Chief Public Health Officer, may collect health information for one or more of the following purposes:

- (a) for health promotion;
- (b) to prevent or manage chronic conditions at the individual or population level and to assess and address risks to public health, including the receipt of information
 - (i) obtained under sections 9 to 14, or
 - (ii) provided by a public health official in another Canadian jurisdiction under an arrangement for the sharing of information to prevent or control the spread of a disease or condition;
- (c) for public health surveillance, the compilation of statistical information and to assess and address public health needs;
- (d) for public health program development, management, delivery, monitoring and evaluation and the development of public health policies or services;
- (e) to conduct or facilitate research into public health issues;
- (f) for the administration and enforcement of this Act, the regulations or orders made under this Act;
- (g) any other purpose expressly authorized under this Act.

Personal health information

(1.1) A person referred to in subsection (1) may not collect personal health information except to the extent it is necessary for the purposes authorized under that subsection.

Accuracy of information

(2) The Chief Public Health Officer shall

- (a) take all reasonable steps to ensure that health information is collected from a reliable source and is accurate and complete before that information is used or disclosed; and
- (b) advise, if practicable, the recipient of any known inaccuracies or errors in that information before that information is used or disclosed.

Disclosure of aggregate or anonymous health information

18. Subject to section 19, health information collected under this Act shall only be disclosed in the form of

- (a) aggregate health information that relates only to groups of individuals in the form of statistical information or aggregated, general or anonymous data; or
- (b) anonymous health information that relates to an unidentifiable individual.

Disclosure of personal health information

19. The Chief Public Health Officer may disclose personal health information if

- (a) the individual consents in accordance with the *Access to Information and Protection of Privacy Act*;
- (b) the Chief Public Health Officer is of the opinion, on reasonable grounds, that the disclosure is necessary
 - (i) to provide health services to, examine, treat or facilitate the care of an individual,
 - (ii) to identify an individual who may pose a risk to public health, or
 - (iii) for the administration and enforcement of this Act, the regulations or orders made under this Act;
- (c) the disclosure is required under section 50;
- (d) the disclosure is made to a public health official in another Canadian jurisdiction under an arrangement for the sharing of information to prevent or control the spread of a disease or condition or for the purpose of public health surveillance; or
- (e) the disclosure is made to Canadian Blood Services or another similar organization in Canada under an arrangement for the sharing of information to prevent or control the spread of a blood-borne disease.

PART 4

HEALTH PROTECTION

Communicable Diseases

Comprehensive authority

20. (1) The Chief Public Health Officer has comprehensive authority to investigate and manage communicable diseases in Nunavut.

Investigation and management of outbreaks

(2) The Chief Public Health Officer may investigate and manage outbreaks in Nunavut.

Health Hazards

Reporting prescribed health hazard

21. A prescribed person who becomes aware of a prescribed health hazard shall, as soon as practicable, report it to the Chief Public Health Officer in accordance with the regulations, unless he or she knows that the health hazard has already been reported in accordance with this section.

Monitoring and risk assessments

22. (1) An environmental health officer may monitor, audit and conduct risk assessments in relation to health hazards.

Monitoring and adapting to climate change

(2) The Chief Public Health Officer may identify and monitor the impact of climate change on public health and develop adaptation strategies to minimize the adverse effects of climate change on the health and well-being of people in Nunavut.

Food Safety

Application

23. (1) This section applies to a person who

- (a) distributes, serves, or sells food to the public or in an institution or camp; or
- (b) manufactures, imports, processes, prepares, packages, stores, handles, transports, distributes, serves or sells food destined to be distributed, served or sold to the public or in an institution or camp.

Unfit or unsafe for human consumption

(2) No person described in subsection (1) shall distribute, serve or sell food that is

- (a) unfit or unsafe for human consumption;
- (b) past the expiry date, if any, after which the manufacturer does not recommend that the product be consumed; or
- (c) in the case of water, not in compliance with the prescribed water quality standards.

Food safety

(3) A person described in subsection (1) shall ensure the safety of the food, including by

- (a) operating in a clean and sanitary manner;
- (b) maintaining his or her premises and transport vehicles under clean and sanitary conditions;
- (c) taking reasonable measures to prevent contamination of the food; and
- (d) taking reasonable measures to protect the public from other food related health hazards.

Safe Water

Municipal water supply

24. (1) Every municipal corporation shall operate and maintain a water supply system.

Adequacy of municipal water supply

(2) Every municipal corporation shall ensure that the quantity of water supplied by the water supply system is adequate to supply the current water demand of the municipality, including a reasonable surplus capacity for anticipated population growth and any fire demand.

Non-municipal water supply system

25. No person, other than a municipal corporation, shall operate a water supply system for the purpose of supplying water to the public or in an institution or camp unless an environmental health officer has approved the water supply system in accordance with the regulations.

Operator of water supply system

26. (1) The operator of a water supply system referred to in section 24 or 25 shall ensure the water it supplies is safe for human consumption, including by

- (a) operating the water supply system in a clean and sanitary manner;
- (b) maintaining the water supply system under clean and sanitary conditions;
- (c) taking reasonable measures to prevent contamination of the water;
- (d) taking reasonable measures to protect the public from other water supply system related health hazards; and
- (e) ensuring the water complies with the prescribed water quality standards.

Inspection and testing

(2) The operator of a water supply system referred to in section 24 or 25 shall, in accordance with the regulations,

- (a) inspect the water supply system;
- (b) test the safety and quality of the water being supplied; and
- (c) report the results of the inspections and tests.

Notice if unsafe

27. (1) The operator of a water supply system referred to in section 24 or 25 shall immediately notify an environmental health officer if the water

- (a) is not safe for human consumption;
- (b) fails a water safety or quality test; or
- (c) fails to comply with the regulations.

Transmission of notice

(2) Where an environmental health officer receives a notice sent under subsection (1), he or she shall forward a copy of the notice to a medical health officer as soon as practicable.

Public warning

(3) A medical health officer shall immediately notify the public, in accordance with the regulations, if he or she becomes aware that a water supply system referred to in subsection 24 or 25 is supplying water that is not safe for human consumption.

Information to public

(4) The notification to the public must be made in accordance with the regulations and clearly advise the public of the non-compliance and of the safe uses of the water, if any.

Sanitation

Municipal sewage systems

28. (1) Every municipal corporation shall operate and maintain a sewage system.

Adequacy of municipal sewage systems

(2) Every municipal corporation shall ensure that the sewage system is adequate to meet the current sewage demand of the municipality, including a reasonable surplus capacity for anticipated population growth.

Non-municipal sewage systems

29. No person, other than a municipal corporation, shall operate a sewage system unless an environmental health officer has approved the sewage system in accordance with the regulations.

Operators of sewage systems

30. The operator of a sewage system shall ensure the system does not create a health hazard, including by

- (a) operating the sewage system in a sanitary manner;
- (b) maintaining the sewage system under sanitary conditions;
- (c) taking reasonable measures to prevent the sewage system from contaminating sources of food or water; and
- (d) taking reasonable measures to protect the public from other sewage system related health hazards.

Municipal waste disposal systems

31. (1) Every municipal corporation shall operate and maintain a waste disposal system.

Adequacy of waste disposal system

(2) Every municipal corporation shall ensure that the waste disposal system is adequate to meet the current waste disposal needs of the municipality, including a reasonable surplus capacity for anticipated population growth.

Operators of systems

32. The operator of a waste disposal system shall ensure that the system does not create a health hazard, including by

- (a) operating the waste disposal system in a sanitary manner;
- (b) maintaining the waste disposal system under sanitary conditions;
- (c) taking reasonable measures to prevent the waste disposal system from contaminating sources of food or water; and
- (d) taking reasonable measures to protect the public from other waste disposal system related health hazards.

Camps

Notice of new camps

33. Subject to the regulations, no person shall open or establish a camp without first notifying the Chief Public Health Officer in accordance with the regulations.

Duty of camp operators

34. (1) The operator of a camp shall, in accordance with the regulations, provide

- (a) an adequate supply of water that is safe for human consumption for the inhabitants of the camp;
- (b) an adequate system for the disposal of sewage; and
- (c) adequate facilities for the disposal of garbage, refuse and other waste from the camp.

Operation of camp

(2) The operator of a camp shall ensure that the camp does not create a health hazard, including by

- (a) operating the camp in a clean and sanitary manner;
- (b) maintaining the camp under clean and sanitary conditions;
- (c) taking reasonable measures to prevent the operation of the camp from contaminating sources of food or water; and
- (d) taking reasonable measures to protect the public, including the inhabitants of the camp, from other camp operation related health hazards.

Reportable event

(3) The operator of a camp shall, in accordance with the regulations, make a report to the Chief Public Health Officer as soon as practicable after he or she first becomes aware of a reportable event at the camp.

Personal Services

Duty of provider

- 35.** (1) A person who provides personal services shall
- (a) ensure that he or she does not create a health hazard; and
 - (b) take reasonable measures to protect the public from personal service related health hazards, including by providing the personal service in a clean and sanitary manner.

Duty of operator

- (2) The operator of a facility that provides personal services shall ensure the facility does not create a health hazard, including by
- (a) operating the facility in a clean and sanitary manner;
 - (b) maintaining the facility under clean and sanitary conditions; and
 - (c) taking reasonable measures to protect the public from facility related health hazards.

Cemeteries, Funerals and Disinterment

Cemeteries, etc.

- 36.** No person shall establish or operate a cemetery, burial ground, burial vault or crematorium, except in accordance with the regulations.

Safe handling and disposal of body

- 37.** (1) A person responsible for the handling or disposal of a deceased person or the conduct of a funeral shall ensure that the body of the deceased does not create a health hazard.

Morgues, etc.

- (2) A person who operates a morgue or stores the body of a deceased person shall
- (a) ensure that he or she does not create a health hazard; and
 - (b) take reasonable measures to protect the public from morgue or storage related health hazards, including by
 - (i) operating the morgue or place of storage in a clean and sanitary manner, and
 - (ii) maintaining the morgue or place of storage under clean and sanitary conditions.

Safe transport

- (3) A person transporting the body of a deceased person shall ensure that the body is transported in a safe and sanitary container and in a manner that does not allow escape of any pathogens or fluids.

Other safety measures

(4) A medical health officer may order a person handling, transporting, storing, disposing of or burying the body of a deceased person who was infected with a communicable disease to take measures to protect public health.

Consent to disinterment

38. (1) For the purposes of section 40 of the *Vital Statistics Act*, a medical health officer may

- (a) consent in writing to disinterment of a body, unless he or she considers it poses an unacceptable risk to public health; and
- (b) attach conditions to that consent to ensure the protection of public health.

Compliance with conditions

(2) A person who disinters a body or handles, transports or disposes of a disinterred body shall comply with any conditions imposed by the medical health officer under paragraph (1)(b).

Other powers

Other powers

39. For greater certainty, orders may be issued under section 59 to address any failure of a person referred to in this Part to comply with this Act, the regulations or an order made under this Act.

PART 5

PUBLIC HEALTH EMERGENCIES

Declaration of Public Health Emergency

Minister's declaration

40. (1) The Minister, on the recommendation of the Chief Public Health Officer, may, by order, declare a state of public health emergency to exist in all or a part of Nunavut if the Minister is satisfied that

- (a) a public health emergency exists; and
- (b) the public health emergency cannot be sufficiently mitigated or remedied without the implementation of special measures available under this section.

Period of emergency

(2) An order declaring a state of public health emergency expires no more than 14 days after it is made, but the Minister, on the recommendation of the Chief Public Health Officer, may, by order, extend the state of public health emergency for additional periods not exceeding 14 days each, if

- (a) the public health emergency continues to exist; and
- (b) the extension is required to protect the public health.

Contents of declaration

(3) An order declaring or extending a state of public health emergency must

- (a) identify the nature of the public health emergency;
- (b) describe the area to which it relates; and
- (c) specify the dates when the order takes effect and when it expires.

Modification

(4) The Minister, on the recommendation of the Chief Public Health Officer, may, by order, reduce the period of the state of public health emergency or the area to which it relates if

- (a) a public health emergency no longer exists in all or part of the area; or
- (b) the order is no longer required to protect the public health in all or part of the area.

Publication

(5) The Chief Public Health Officer shall publish the details of any order made under this section without delay, in a manner that can reasonably be expected to notify the residents of the area to which the order relates.

Special measures

41. (1) During a state of public health emergency, the Chief Public Health Officer may, for the purpose of protecting the public health and preventing, remedying or mitigating the effects of the public health emergency,

- (a) authorize qualified persons to render aid of a specified type or types;
- (b) enter into an agreement for services with any agency of the Government of Canada, a province or another territory;
- (c) procure and provide for the distribution of medical supplies, aid and equipment in any part of Nunavut;
- (d) acquire or use real or personal property, whether private or public, other than a dwelling;
- (e) make orders restricting travel to or from Nunavut or any area within Nunavut;

- (f) subject to subsection (4), enter or authorize any person implementing a direction or order from the Chief Public Health Officer to enter any premises without a warrant; and
- (g) take any other measure the Chief Public Health Officer reasonably believes is necessary for the protection of public health during the public health emergency.

Additional powers and functions

(2) For greater certainty, the Chief Public Health Officer may exercise any of his or her other powers and functions during a state of public health emergency.

Other effects

(3) During a state of public health emergency, the Chief Public Health Officer may do one or more of the following:

- (a) act in a shorter or longer time than is otherwise required;
- (b) not provide a notice that is otherwise required;
- (c) do orally what must otherwise be done in writing;
- (d) serve an order in any manner that can reasonably be expected to give actual notice of the order;
- (e) subject to subsection (4), conduct an inspection at any time, with or without a warrant.

Dwelling

(4) The Chief Public Health Officer shall not inspect, enter or authorize entry into a dwelling under paragraph (1)(f) or (3)(e) unless

- (a) the occupant or person in charge of the dwelling consents;
- (b) the entry is authorized by a warrant; or
- (c) the dwelling, or something in or only accessible through the dwelling, is a serious and immediate risk to public health.

Compensation

42. The Minister shall pay reasonable compensation for the acquisition or use of real or personal property acquired or used under paragraph 41(1)(d).

PART 6

GOVERNANCE

Minister

Minister's powers and duties

43. The Minister

- (a) shall advise the government on matters relating to public health not dealt with specifically under another Act, including making recommendations on public health matters for inclusion in

- Nunavut's emergency plans or to the Minister responsible for the *Emergency Measures Act* during the management of a public health emergency;
- (b) shall prepare an annual report within six months of the end of each calendar year respecting the reportable events, outbreaks, public health emergencies and number of inspections under this Act during the year;
 - (b.1) shall table the reports referred to in paragraph (b) and paragraph 44(6)(e) in the Legislative Assembly during the first sitting of the Assembly after each report is prepared;
 - (c) may establish and implement programs and services for public health and establish standards for those programs and services;
 - (d) may provide for the services of public health laboratories and give directions from time to time as to the nature and extent of their services; and
 - (e) may enter into agreements on behalf of the Government of Nunavut respecting public health matters with other jurisdictions and organizations.

Chief Public Health Officer

Appointment of Chief Public Health Officer

44. (1) The Minister shall appoint a Chief Public Health Officer.

Qualifications

(2) The Chief Public Health Officer must be a medical practitioner and possess the qualifications that the Minister establishes by directive.

Term of office

(3) The Chief Public Health Officer holds office for a term not exceeding five years.

Removal

(4) The appointment of the Chief Public Health Officer shall not be terminated except for cause.

Independence and impartiality of office

(5) In exercising the powers and performing the duties of his or her office, the Chief Public Health Officer shall act independently and impartially in order to best protect and promote the public health of people in Nunavut.

Powers and duties

(6) The Chief Public Health Officer may exercise the powers and shall perform the duties assigned to that office by or under this Act to protect and promote the public health of people in Nunavut and, in particular,

- (a) shall monitor the health of people in Nunavut;

- (b) shall implement measures to identify, investigate and manage communicable diseases;
- (c) shall take such actions as are needed to implement the programs and services established under this Act;
- (d) shall be responsible for the public health aspects of Nunavut's emergency preparedness and response;
- (e) shall prepare and publish, every two years, a report to the Executive Council regarding the health of people in Nunavut;
- (f) subject to subsection 22(4) of the *Interpretation Act*, may issue directions to public officers appointed under this Act;
- (g) may provide advice to the government, public health bodies, and public officials on public health issues;
- (h) may make recommendations and engage in planning in respect of public health;
- (i) may enter into agreements on behalf of the Government of Nunavut with the Public Health Agency of Canada or any other agency or body for administrative or technical functions under this Act, including the exchange and disclosure of health information and testing and laboratory services; and
- (j) may prepare a report on any matter of concern that, in the sole discretion of the Chief Public Health Officer, should be brought to the attention of the Legislative Assembly and provide it directly to the Speaker.

Office

(7) The Chief Public Health Officer is, by virtue of his or her office, a medical health officer and an environmental health officer.

Deputy Chief Public Health Officer

Deputy Chief Public Health Officer

45. (1) The Minister shall appoint a Deputy Chief Public Health Officer.

Term of office

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

Qualifications

(3) The Deputy Chief Public Health Officer must be a medical practitioner and possess the qualifications that the Minister establishes by directive.

Powers and duties

(4) The Deputy Chief Public Health Officer

- (a) is, by virtue of his or her office, a medical health officer and an environmental health officer; and

- (b) may act in the place of the Chief Public Health Officer if he or she is absent or unable to act, or if the office of the Chief Public Health Officer is vacant.

Medical Health Officers

Appointment of medical health officers

46. (1) The Chief Public Health Officer may appoint medical health officers.

Qualifications

(2) A medical health officer must be a medical practitioner and possess the qualifications that the Minister establishes by directive.

Powers and duties

(3) A medical health officer

- (a) is, by virtue of his or her office, an environmental health officer;
- (b) may exercise the powers and shall perform the duties assigned to medical health officers under this Act; and
- (c) shall follow any directions issued by the Chief Public Health Officer or by the Deputy Chief Public Health Officer when exercising their powers and performing their duties.

Environmental Health Officers

Appointment of environmental health officers

47. (1) The Chief Public Health Officer may appoint environmental health officers.

Qualifications

(2) An environmental health officer must possess the qualifications that the Minister establishes by directive.

Powers and duties

(3) An environmental health officer

- (a) may exercise the powers and shall perform the duties assigned to environmental health officers under this Act; and
- (b) shall follow any directions issued by a medical health officer when exercising their powers and performing their duties.

Community Health and Wellness Committees

Establishment

48. (1) A municipal council may establish a community health and wellness committee composed of residents of the municipality for the purpose of providing advice and recommendations respecting local public health issues.

Designation

(2) Where a municipal council has not established a community health and wellness committee under subsection (1), the Minister may designate as a community health and wellness committee an organization, whether incorporated or not, that

- (a) is composed of residents of the municipality; and
- (b) has as a purpose the provision of advice and recommendations respecting local public health issues.

Consideration of advice

(3) The Minister and the Chief Public Health Officer shall consider any advice or recommendations respecting local public health issues provided by a community health and wellness committee.

Terms of relationship

(4) The Minister may, by memorandum of understanding or other document, establish the terms of the relationship between a community health and wellness committee, the Minister and the Chief Public Health Officer.

PART 7

LEGAL MATTERS

Individual Rights and Freedoms

Restrictions on rights and freedoms

49. Where an individual's rights or freedoms are restricted as a result of the exercise of a power or the performance of a duty under this Act, the regulations or an order made under this Act, the restriction must be no greater than is reasonably required in the circumstances to respond to a disease, health hazard, public health emergency or contravention of this Act, the regulations or an order made under this Act.

Warning of Risks to Public Health

Duty to warn and protect

50. (1) If the Chief Public Health Officer has reasonable grounds to believe that the public in general or a specific group or individual is threatened by a serious risk to public health, the Chief Public Health Officer shall, without delay, take reasonable steps to

- (a) warn the public, group or individual by disclosing the nature and source of the risk to public health, except where disclosure is prohibited by law; and
- (b) protect the public, group or individual from the risk to public health.

Exception

(2) The Chief Public Health Officer is not required to disclose information under paragraph (1)(a) if he or she believes that such disclosure would result in a clear and overriding adverse effect, including circumstances where

- (a) disclosure unduly violates the privacy and confidentiality rights of one or more individuals;
- (b) disclosure unduly stigmatizes one or more individuals or groups;
- or
- (c) disclosure would likely cause behaviour that would result in an increased risk to public health.

Event of national or international concern

(3) The Chief Public Health Officer shall warn the Public Health Agency of Canada of any event that the Chief Public Health Officer believes may constitute a public health event of national or international concern after considering

- (a) the seriousness of the public health impact of the event;
- (b) the unusual or unexpected nature of the event; and
- (c) the risk that the event might spread outside of Nunavut.

School principals

(4) Where an order has been issued under paragraph 55(2)(d) prohibiting or restricting a person from attending school, the Chief Public Health Officer may, in writing, advise the principal of the school that the person has a communicable disease and that for the health and safety of the person or others, the person should not be in a regular instructional setting.

Personal health information

(4.1) A principal shall not disclose personal health information provided under subsection (4) to any person other than

- (a) the person who has been prohibited or restricted from attending school; or
- (b) the guardian of the person referred to in paragraph (a).

Inspection reports

(5) The Chief Public Health Officer may, in accordance with the regulations, disclose and make public inspection reports or ratings in respect of inspected premises.

Minimum personal health information

(6) When disclosing information under this section, the Chief Public Health Officer shall only disclose the least amount of personal health information possible to make an effective warning.

Liability

Protection from liability

51. (1) A person having powers or duties or giving assistance under this Act, the regulations or an order made under this Act is not personally liable for any loss or damage suffered by reason of anything done or not done by him or her in good faith in the exercise of his or her powers, in the performance of his or her functions or duties or in giving assistance under this Act, the regulations or an order.

Vicarious liability

(2) For greater certainty, despite subsection (1), the Government of Nunavut is vicariously liable for anything done or not done by a person referred to in that subsection if the government would be vicariously liable in the absence of that subsection.

Protection of Whistleblowers

Definition

52. (1) For the purposes of this section, an "appropriate authority" means someone the employee or contractor reasonably believes had the authority to take action in the circumstances and includes

- (a) a peace officer;
- (b) an environmental health officer; and
- (c) the Ethics Officer appointed under the *Public Service Act*.

No reprisals against whistleblowers

(2) No person shall take a reprisal against an employee or contractor who works in the same organization, or direct or wilfully condone the taking of such a reprisal, because the employee or contractor has

- (a) reported or proposed to report to an appropriate authority an act or omission contrary to this Act, the regulations or an order made under this Act;
- (b) reported or proposed to report to an appropriate authority an act or omission that creates or appears to create a risk to public health;
- (c) commenced or proposed to commence a prosecution under the *Environmental Rights Act*; or
- (d) cooperated in an inspection or investigation under this Act or the *Environmental Rights Act*.

Examples of reprisals

(3) For the purposes of subsection (2), a reprisal includes

- (a) a disciplinary measure;
- (b) a demotion;
- (c) the termination of employment or contract;
- (d) any measure that adversely affects the employee's employment, engagement or working conditions, including bullying, harassment, isolation or denial of appropriate work; and

- (e) a threat to take any of the measures referred to in paragraphs (a) to (d).

Further protections

(4) The conduct listed in paragraphs (2)(a) to (d) shall not be considered to be

- (a) a breach of confidence, except in the case of a breach of any privilege available at law;
- (b) a breach of contract;
- (c) an act giving rise to a cause of action; or
- (d) an offence.

Exception

(5) The Court may order that the protections under subsections (2) and (4) do not apply if

- (a) the employee or contractor acted in bad faith or made allegations he or she knew were false or misleading; and
- (b) the reprisal was reasonable in the circumstances.

Remedy

(6) Where a person is convicted of an offence for a contravention of subsection (2), the Court may, in addition to sanctions available under Part 10, order the person to take or refrain from taking action specified in the order and award compensatory damages for loss of past and future earnings and loss of economic opportunity.

Other remedies and rights not affected

(7) Nothing in this section affects any existing remedy available at law to any person, including any rights under the *Public Service Act*, the *Labour Standards Act*, a collective agreement or an employment contract.

Persons Assisting

Protections extend to persons assisting

53. The protections afforded by this Act or any other law to an environmental health officer extend to other persons while and to the extent they are in the course of assisting the environmental health officer under his or her direction or instructions.

PART 8

ORDERS

Communicable Disease Orders

Definition

54. In this Part, “examine” and “examination” include the taking of a medical history, a physical inspection, palpation, percussion, auscultation of the body, laboratory tests and other investigations such as x-rays.

Conditions precedent for communicable disease order

55. (1) An order may be made under this section if the person authorized to make the order believes, on reasonable grounds, that

- (a) a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease;
- (b) the communicable disease presents a risk to public health; and
- (c) the order is necessary to prevent, eliminate, remedy, or mitigate the risk to public health.

Orders in respect of communicable disease – infected persons

(2) Subject to subsection (1), a medical health officer may make an order in respect of a person who has or is suspected of having a communicable disease or is infected with a pathogen that causes a communicable disease

- (a) requiring the person to submit to an examination by a specified health care professional at a specified health facility on or before a particular date or according to a schedule;
- (b) requiring the person to isolate himself or herself from other persons, including in a specified health facility;
- (c) requiring the person to conduct himself or herself in a manner that will not expose others to infection or to take other precautions to prevent or limit the direct or indirect transmission of the disease or pathogen to those who are susceptible to the pathogen or who may spread the pathogen to others;
- (d) prohibiting or restricting the person from attending a school, a place of employment or other public place or using a public conveyance;
- (e) prohibiting or restricting the person from engaging in his or her occupation or another specified occupation or type of occupation;
- (f) requiring the person to remain in a specified place or not enter a specified place;
- (g) requiring the person to avoid physical contact with, or being near, a person, animal or thing;
- (h) requiring the person to be under the supervision or care of a specified person;

- (i) requiring a person to provide information, records or other documents relevant to the person's possible infection to a specified person;
- (j) requiring a person to provide samples of the person's possessions to a specified person;
- (k) requiring a person to provide specimens previously collected from the person to a specified person;
- (l) requiring the person to take treatment specified in the order or by a specified health care professional, including going to a specified health facility for a specified period of time if there is no other reasonable method available to mitigate the risks of the infection;
- (m) requiring a person to disclose the identity and location of the persons with whom the person may have had contact or whom the person may have exposed to the communicable disease; or
- (n) requiring the person to take a prescribed action.

Orders in respect of communicable disease – exposed persons

(3) Subject to subsection (1), a medical health officer may make an order in respect of a person who has been exposed or may have been exposed to a pathogen that causes a communicable disease during its period of communicability

- (a) requiring the person to submit to an examination by a specified health care professional at a specified health facility on or before a particular date or according to a schedule;
- (b) requiring the person to quarantine himself or herself from other persons, including in a specified health facility;
- (c) requiring the person to conduct himself or herself in a manner that will not expose others to infection or to take other precautions to prevent disease transmission during the incubation period for that communicable disease;
- (d) requiring a person to provide information, records or other documents relevant to the person's possible infection to a specified person;
- (e) requiring a person to provide samples of the person's possessions to a specified person;
- (f) requiring a person to provide specimens previously collected from the person to a specified person;
- (g) requiring the person to take preventive measures specified in the order or by a specified person, including going to a specified health facility for a specified period of time if there is no other reasonable method to deal with the possible infection;
- (h) requiring a person to disclose the identity and location of the persons with whom the person may have had contact or whom the person may have exposed to the communicable disease; or
- (i) requiring the person to take a prescribed action.

Orders in respect of communicable disease – places, premises or things

(4) Subject to subsection (1), a medical health officer may order the owner or operator of any place, premises or thing that is or may be contaminated with a pathogen that causes a communicable disease

- (a) to close the place or premises;
- (b) to prohibit or restrict entry to the place or premises; or
- (c) to take a prescribed action.

Same

(5) Subject to subsection (1), an environmental health officer may order the owner or operator of any place, premises or thing contaminated with a pathogen that causes a communicable disease

- (a) to clean, disinfect and deinfest the place, premises or thing;
- (b) to destroy the thing; or
- (c) to allow a specified person to enter the place or premises and to allow that person
 - (i) to clean, disinfect or deinfest the place, premises or thing, or
 - (ii) to destroy the thing.

Orders in respect of communicable disease – health and residential facilities

(6) Subject to subsection (1), a medical health officer may order the owner or operator of any health facility, personal care home, correctional centre or other similar residential facility that is or may be contaminated with a pathogen that causes a communicable disease

- (a) to take precautions to control or minimize the risk of transmitting a communicable disease; or
- (b) to take measures for monitoring, investigating and responding to an outbreak of communicable disease at the premises.

Orders in respect of communicable disease – animals

(7) Subject to subsection (1), an environmental health officer may make an order in respect of an animal that has or is suspected of having a zoonotic disease or has been exposed or may have been exposed to a zoonotic disease

- (a) requiring one of the following to take an action specified in subsection (8):
 - (i) the owner or person in possession of the animal,
 - (ii) a conservation officer, a by-law officer or a peace officer;or
- (b) authorizing a person to take an action specified in subsection (8).

Same

(8) An order under subsection (7) may require or authorize

- (a) taking the animal to a specified veterinary surgery or a specified veterinary facility on or before a particular date or according to a

- schedule for the purpose of having the animal undergo an examination;
- (b) seizing the animal;
- (c) isolating or quarantining the animal from other animals and from humans; or
- (d) in the case of an order made by the Chief Public Health Officer, destroying the animal.

Additional requirements in order

(9) An order under this section may require a person who is subject to the order to provide

- (a) evidence of compliance with the order, including a certificate of compliance from a medical practitioner, a nurse or other specified person; and
- (b) information or records relevant to the order.

Order to parent or guardian

(10) If an order under this section is directed at a minor, or an adult subject to a guardianship order under the *Guardianship and Trusteeship Act* or a similar enactment of another jurisdiction, the person authorized to make the order may order a parent or other person having custody of the minor, or the guardian of the adult, to ensure that the minor or adult complies with the order.

Order to person attending a patient

(11) A medical health officer may order a health care professional or other person attending a patient subject to an order under this section to

- (a) comply with a guideline approved or issued by the Chief Public Health Officer for controlling a communicable disease; or
- (b) take specified measures, not including the use of force on a person, to prevent the spread of the communicable disease.

Order as authority

(12) An order under this section may authorize a person to do a specified action in the furtherance of the purpose of the order, not including the use of force on a person, and such authority is valid whether or not the person has been served or is aware of the contents of the order.

Dwelling

(13) An order under this section shall not authorize a person to enter a dwelling or compel a person to let another person enter a dwelling unless

- (a) the occupant or person in charge of the dwelling consents;
- (b) the entry is authorized by a warrant; or
- (c) the dwelling, or something in or only accessible through the dwelling, is a serious and immediate risk to public health.

Apprehension and Treatment Orders

Definitions

56. (1) In this section and section 57,

"apprehension order" means an order made by a justice or judge under subsection (3) to apprehend, detain, isolate, quarantine or transport a person; (*ordonnance d'appréhension*)

"treatment order" means an order made by a judge under subsection (5) to care for, examine and treat a person. (*ordonnance de traitement*)

Conditions precedent for apprehension order

(2) The Chief Public Health Officer may apply to a justice or judge for an apprehension order where he or she has reasonable grounds to believe that

- (a) a person is infected with or has been exposed to a pathogen that causes a virulent communicable disease;
- (b) the disease presents a serious risk to public health;
- (c) the person has failed to comply with one of the following orders or reasonable attempts to serve the person with one of the following orders have failed:
 - (i) an order to submit to an examination under paragraph 55(2)(a) or 55(3)(a),
 - (ii) an isolation order under paragraph 55(2)(b),
 - (iii) an order requiring the person to remain in a specified place under paragraph 55(2)(f);
 - (iv) an order to submit to treatment under paragraph 55(2)(l);
 - (v) a quarantine order under paragraph 55(3)(b),
 - (vi) a preventative measures order under paragraph 55(3)(g);and
- (d) there is no other reasonable method available to mitigate the risk.

Same

(3) A justice or judge may make an apprehension order if he or she is satisfied that the conditions listed in subsection (2) have been met.

Conditions precedent for treatment order

(4) Where an apprehension order has been made or applied for with respect to a person, the Chief Public Health Officer may apply to a judge for a treatment order where he or she has reasonable grounds to believe that

- (a) the person has failed to comply with one of the following orders:
 - (i) an order to submit to an examination under paragraph 55(2)(a) or 55(3)(a),
 - (ii) an order to submit to treatment under paragraph 55(2)(l);
- (b) failure to examine or treat the person presents a serious risk to public health; and

- (c) there is no other reasonable method available to mitigate the risk.

Same

(5) A judge may make a treatment order, with such conditions as the judge considers appropriate, if an apprehension order is in effect and he or she is satisfied that the conditions listed in subsection (4) have been met.

Duration of apprehension order

(6) An apprehension order is valid for an initial period of no more than 60 days, but may be extended by a justice or judge, upon application of the Chief Public Health Officer, for consecutive periods of not more than 60 days at a time, if satisfied that

- (a) the person subject to the order continues to be infectious with a virulent communicable disease; and
- (b) the discharge of the person subject to the order would present a serious risk to public health.

Duration of treatment order

(7) A treatment order is valid for an initial period ending no later than the end of the apprehension order, and may be extended by a judge, upon application of the Chief Public Health Officer, for further periods ending no later than the end of the apprehension order, including any period of extension granted under subsection (6), and with such conditions as the judge considers appropriate, if satisfied that ending examination or treatment would present a serious risk to public health.

Variation, termination or suspension of order

(8) The Chief Public Health Officer or a person subject to an order under this section may apply to vary, terminate or suspend the order to

- (a) a justice or judge, in the case of an apprehension order; or
- (b) a judge, in the case of a treatment order.

Notice of application

(9) An order or the extension, variation, termination or suspension of an order under this section

- (a) in the case of an application made by the Chief Public Health Officer, may be issued on an application made without notice and in the absence of the person with respect to whom it is sought; or
- (b) in the case of an application made by the person subject to the order, may only be issued where the Chief Public Health Officer has been served with the application.

Content of order

(10) An order under this section shall include the name of a health facility where the person subject to the order is to be detained, isolated, quarantined or treated, as the case may be.

Health facility must be capable

(11) A justice or judge shall not name a health facility in an order under this section unless he or she is satisfied that the health facility is able to provide detention, isolation, quarantine or treatment as required for the person subject to the order.

Content of apprehension order

(12) An apprehension order

- (a) shall specify the dwelling or dwellings where the justice or judge has reason to believe the person subject to the order is located; and
- (b) may direct the police force that has jurisdiction in the area where the person subject to the order may be located to take all reasonable measures to locate, apprehend and detain the person subject to the order, and to deliver him or her to the health facility specified in the order.

Direction to police force

57. (1) A police force directed under paragraph 56(12)(b) shall take all reasonable measures to locate, apprehend and detain the person subject to the order, and to deliver him or her to the health facility specified in the order.

Authority for peace officer

(2) An apprehension order is authority for any peace officer, at the request of the Chief Public Health Officer, to

- (a) take all reasonable measures to locate and apprehend the person subject to the order;
- (b) enter any premises, other than a dwelling, where the peace officer has reason to believe the person subject to the order may be located;
- (c) enter any dwelling specified in the order;
- (d) detain the person subject to the order; and
- (e) deliver the person subject to the order to the health facility specified in the order.

Information to person

(3) A person who apprehends a person subject to an apprehension order shall promptly inform the person of

- (a) the reasons for the apprehension;
- (b) the person's right to retain and instruct counsel without delay; and
- (c) the place to which the person is being taken.

Obligation to detain and treat

(4) Where an apprehension or treatment order has been made, the person in charge of the health facility specified in the order shall ensure that

- (a) in the case of an apprehension order, the person subject to the order is detained, isolated or quarantined in accordance with the order; and
- (b) in the case of a treatment order, the person subject to the order is treated in accordance with the order.

Authority for facility to detain

(5) An apprehension order is authority to detain, isolate or quarantine the person subject to the order in the health facility specified in the order.

Authority for facility to treat

(6) Subject to the terms of the treatment order, a treatment order is authority for a health care professional at the health facility where the person subject to the order is detained, isolated or quarantined to care for and examine the person and to treat the person for the virulent communicable disease in accordance with generally accepted medical practice.

Authority to use force

(7) Subject to the terms of the treatment order, a treatment order is authority for the health care professional or a person assisting him or her to use necessary force to enable the health care professional to care for, examine or treat the person subject to the order in accordance with subsection (6), and such use of necessary force does not constitute an assault or battery against the person.

Report on person

(8) The person in charge of the health facility specified in the order shall immediately report to the Chief Public Health Officer on

- (a) the results of the examination and treatment;
- (b) the status of the person subject to the order; and
- (c) any change in the initial diagnosis or status of the person subject to the order.

Discharge

(9) A medical health officer shall monitor the treatment and condition of a person subject to the order and shall issue a certificate authorizing the release and discharge of the person as soon as he or she is of the opinion that

- (a) the person is no longer infectious with a virulent communicable disease; and
- (b) the discharge of the person would not present a serious risk to public health.

End of order

(10) Despite any term or condition of an apprehension or treatment order, such an order is terminated immediately upon the issuance of a certificate under subsection (9) or the termination of the order under subsection 67(5).

Health Facilities Outside Nunavut

Specifying in orders

58. (1) An order in this Part shall not specify a health care professional or a health facility outside Nunavut, unless it is one of the following orders and the conditions in subsection (2) have been met:

- (a) an order to submit to an examination under paragraph 55(2)(a) or 55(3)(a);
- (b) an isolation order under paragraph 55(2)(b);
- (c) an order to submit to treatment under paragraph 55(2)(l);
- (d) a quarantine order under paragraph 55(3)(b);
- (e) a preventative measures order under paragraph 55(3)(g);
- (f) an apprehension order under subsection 56(3); or
- (g) a treatment order under subsection 56(5).

Conditions

(2) An order referred to in subsection (1) may only specify a health care professional or a health facility outside Nunavut if

- (a) the health care professional or health facility is in Canada;
- (b) a suitable health care professional or health facility does not exist in the region of Nunavut where the person subject to the order is located; and
- (c) the health care professional or the person in charge of the health facility, and the applicable authorities in the other jurisdiction have consented to receiving the person subject to the order.

Health Hazard Orders

Conditions precedent for health hazard order

59. (1) An environmental health officer may make an order under this section if he or she believes, on reasonable grounds, that

- (a) a health hazard exists;
- (b) the order is necessary to prevent, eliminate, remedy, mitigate the health hazard; and
- (c) it is reasonable to make the order to the person specified in the order.

Orders in respect of health hazards

(2) Subject to subsections (1) and (5), an environmental health officer may make an order in respect of a health hazard

- (a) requiring a person to take or permit to be taken samples of anything that the environmental health officer has reason to believe is a health hazard to determine the nature and extent of the health hazard;
- (b) requiring a person to have a substance or thing inspected, disinfected, deinfested, decontaminated, altered or destroyed,

- including by a specified person, or, under the supervision or instructions of a specified person, moving the substance or thing to a specified place;
- (c) prohibiting or restricting a person from leaving or entering a specified place;
 - (d) prohibiting or restricting a person from engaging in a specified activity;
 - (e) requiring a person to assist in evacuating the place or examining persons found in the place or to take preventive measures in respect of the place or persons found in the place;
 - (f) requiring a person who has control of a place to do specific work to
 - (i) remove or alter things in or on the place,
 - (ii) take measures to restrict or prevent entry to the place, including by a specified class of persons, and
 - (iii) preserve, deal with or dispose of things in or on the place in accordance with a specified procedure;
 - (g) requiring a person to keep a substance or thing in a specified place or in accordance with a specified procedure or to prevent persons from accessing a substance or thing;
 - (h) requiring a person to require, prohibit or restrict the disposal, alteration or destruction of a substance or thing, in accordance with a specified procedure;
 - (i) requiring a person to provide to an environmental health officer or a specified person information, records, samples or other matters relevant to a possible infection of a substance or thing with a pathogen or contamination of a substance or thing with a hazardous agent, including information respecting persons who may have been exposed to a pathogen or hazardous agent;
 - (j) requiring a person to wear or use a type of clothing, personal effects or personal protective equipment, or to change, remove or alter such clothing or equipment, in relation to a substance or thing;
 - (k) requiring a person to use a type of equipment or implement a process, or remove equipment or alter equipment or processes, in relation to a substance or thing;
 - (l) prohibiting or restricting a person from importing, distributing or selling a substance or thing in Nunavut;
 - (m) requiring that the manufacturer, importer, distributor, or seller of a substance or thing recall it;
 - (n) requiring a person to take a prescribed action;
 - (o) requiring a person take other specified actions necessary to prevent, eliminate, remedy, reduce or mitigate the health hazard.

Additional requirements in order

- (3) An order under this section may require a person who is subject to the order to

- (a) monitor the health hazard in a specified manner and times, either as a preliminary matter or as an on-going measure of compliance;
- (b) provide evidence of compliance with the order, including getting a certificate of compliance from a specified person; and
- (c) provide information or records relevant to the order.

Order as authority

(4) An order under this section may authorize a person to do a specified action in the furtherance of the purpose of the order, not including the use of force on an individual, and such authority is valid whether or not the person has been served or is aware of the contents of the order.

Dwelling

(5) An order under this section shall not authorize a person to enter a dwelling or compel a person to let another person enter a dwelling unless

- (a) the occupant or person in charge of the dwelling consents;
- (b) the entry is authorized by a warrant; or
- (c) the dwelling, or something in or only accessible through the dwelling, is a serious and immediate risk to public health.

Due Process Requirements for Orders

Right to make representations

60. (1) Before issuing an order under this Part, the person making the order shall, unless there are exigent circumstances,

- (a) advise or take reasonable steps to notify the person who is to be the subject of the order; and
- (b) provide the person with a reasonable opportunity to make representations respecting the order.

Process in regulations

(2) The process under subsection (1) for advising, providing an opportunity to make representations and the making and consideration of representations must be conducted in accordance with the regulations.

Contents of orders

61. (1) An order shall be in writing and set out

- (a) the legal authority for the order;
- (b) the grounds for making the order and the justification for any specific actions ordered;
- (c) the person or persons to whom the order is made and who must comply with the order;
- (d) the specifics of any work or action to be performed or ceased;
- (e) a description of any substance, thing or place that is subject to the order;
- (f) any conditions applicable to the order;

- (g) any specific time limits applicable in the order, including time to comply, to make an appeal or an application for reconsideration, or for mandatory review;
- (h) how a person affected by the order may have the order reviewed, appealed or reconsidered;
- (i) a statement advising that the order is in effect during any review, appeal or reconsideration; and
- (j) the date of the order and the name, title and signature of the person issuing the order.

Class of persons and unknown person

(2) An order may be made in respect of a class of persons or in respect of a person identified by means other than his or her name.

Variation

(3) An order, other than an order made under section 56, may be varied, terminated, or suspended, in whole or in part, by the person who made the order or the Chief Public Health Officer at any time on his or her own initiative.

Subsequent variation

(4) An order that has been varied, terminated, or suspended, in whole or in part, by the Chief Public Health Officer shall not be further varied, terminated, or suspended by any person other than the Chief Public Health Officer.

Service of orders

(5) Orders, including variations of orders, must be served in accordance with the regulations.

Informing examiner

- (6) If a person is ordered to be examined, the order
- (a) shall be provided to the examiner by the person subject to the order; and
 - (b) may be provided to the examiner by or on behalf of the person who made the order.

Order for examination

(7) If a person is ordered to be examined, the order must include an instruction to the examiner to provide a copy of the results of the examination to the examined person, and may instruct the examiner to provide

- (a) a copy of the results of the examination to one or more of
 - (i) a health care professional chosen by the examined person, if any,
 - (ii) the person who made the order, and
 - (iii) any person specified in the order; and
- (b) a report to a person listed in paragraph (a) respecting
 - (i) the examiner's recommendations, and

- (ii) the compliance or non-compliance of the person being examined with the order.

Non-disclosure

(8) Despite subsection (5), a medical health officer may order an examiner not to disclose the results of an examination to the examined person if he or she believes on reasonable grounds that the disclosure could reasonably be expected to

- (a) threaten the safety or mental or physical health of another person;
- (b) interfere with public safety; or
- (c) result in immediate and grave harm to the safety or mental or physical health of the examined person.

Instruction on outcome

(9) An order may include instructions to the examiner respecting the outcome to be achieved.

Oral orders

(10) Despite subsection (1), an environmental health officer may issue an order orally if he or she considers that

- (a) there is an immediate and serious risk to public health; and
- (b) there is insufficient time to make a written order.

Expiry of oral order

(11) An oral order issued under subsection (10) expires 48 hours after it is made, but may be continued in force by a written order issued before the oral order expires.

Enforcement

Order to remedy non-compliance

62. If an environmental health officer believes on reasonable grounds that a person, or a thing or place owned or operated by a person, is not in compliance with this Act, a regulation or an order, he or she may make an order requiring the person to take specified actions within a specified period of time to bring the person, thing or place into compliance with this Act, the regulation or the order.

Injunction

63. The Chief Public Health Officer may apply to the Court for an injunction to enforce the relevant provisions of any order made under this Act.

Performance of work or action

64. (1) An order made under this Part may provide that if work or action required to be taken by a person under the order is not taken within the time specified in the order, the Chief Public Health Officer may have the work or action performed at the expense of the person.

Right of entry and performance of work or action

(2) A person acting on behalf of the Chief Public Health Officer may enter on or into the place or premises that is subject to the order and may perform the work or action required under subsection (1) after the time specified in the order has elapsed.

Dwelling

- (3) The person referred to in subsection (2) shall not enter a dwelling unless
- (a) the occupant or person in charge of the dwelling consents;
 - (b) the entry is authorized by a warrant; or
 - (c) the dwelling, or something in or only accessible through the dwelling, is a serious and immediate risk to public health.

Enforcement

(4) If a person subject to an order fails to pay the expenses related to a work or action performed under subsection (2) related to the order, the Chief Public Health Officer may issue a certificate under subsection (5) in respect of any amount owing by the person under the order and file it with the Court.

Contents of certificate

- (5) A certificate issued under subsection (4) must set out
- (a) the details of the original order, including the date it was issued;
 - (b) the name of the person who was subject to the original order;
 - (c) the total amount owing for the reasonable expenses in performing any work or action under subsection (2); and
 - (d) the date the expenses were incurred, and the manner in which they were incurred.

Effect of certificate

- (6) Subject to the regulations, a certificate issued and filed under subsection (4)
- (a) has the same effect, and proceedings may be taken on it, as if it were a judgment of the Court for the recovery of a debt in the amount stated against the person who was subject to the original order;
 - (b) is admissible in any proceedings to recover the certified debt without proof of the signature or official position of the person appearing to have signed the certificate; and
 - (c) is proof of the certified facts.

Service of certificate

(7) A copy of the filed certificate must be served in the prescribed manner on the person who was subject to the original order.

Request for review

(8) A person who was served a copy of the filed certificate issued under subsection (4) may, within 30 days of being served, request the Court to review the amount owing in accordance with the regulations.

Court review

(9) After reviewing the amount owing, the Court may rescind or modify the certificate if satisfied that the amount is not owing or not reasonable.

Notice of substantial compliance

(10) If a certificate has been filed with the Court and the Chief Public Health Officer is satisfied that the order has been substantially complied with, he or she shall deliver a notice to that effect to the Court.

Cancellation of certificate

(11) If a notice of substantial compliance has been delivered in accordance with subsection (10), the Court shall cancel the relevant certificate.

Warrant to execute order

65. 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, functions or duties or perform any work or action specified in an order under this Part if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) the order is necessary to protect public health;
- (b) the warrant is necessary for the exercise of any of the powers, functions or duties or the performance of any work or action specified in the order; and
- (c) the occupant or person in charge of the place does not or will not consent or an attempt to obtain consent may result in an increased risk to public health.

Appeals, Reconsiderations and Reviews

Appeal of orders by officers

66. (1) A person who is subject to an order made under this Act by an environmental health officer other than the Chief Public Health Officer may appeal the order to the Chief Public Health Officer by filing a written notice of appeal within 30 days after the day on which the order is served on the person.

Reconsideration of orders by Chief Public Health Officer

(2) A person who is subject to an order made under this Act by the Chief Public Health Officer, other than one confirmed or varied under this section, may apply to the Chief Public Health Officer for reconsideration of the order by filing a written application for reconsideration within 30 days after the day on which the order is served on the person.

Contents of notice or application

- (3) The notice of appeal or application for reconsideration must set out
- (a) the reasons for the appeal or application;
 - (b) a summary of any facts relevant to the appeal or application;
 - (c) whether the order should be revoked or what changes should be made to it; and
 - (d) the contact information of the appellant or applicant.

Process

(4) The Chief Public Health Officer shall consider the appeal or application, including any oral or written evidence submitted by the appellant or applicant or available to the Chief Public Health Officer to support or repudiate any allegation contained in the appeal or application.

Extrinsic evidence

(5) If the Chief Public Health Officer intends to rely on evidence other than that submitted by the appellant or applicant in considering an appeal or application, the Chief Public Health Officer shall provide that evidence to the applicant or appellant and allow the applicant or appellant to respond with further evidence.

Decision

(6) The Chief Public Health Officer shall, within 10 days after receiving the notice of appeal or the application for reconsideration, make a decision whether to confirm, vary or rescind the order.

Copy to appellant or applicant

(7) The Chief Public Health Officer shall provide the appellant or applicant, and any other affected party, with a written copy of the decision made under subsection (6), with reasons, as soon as practicable.

Mandatory review

67. (1) Subject to subsection (2), the Chief Public Health Officer shall review an order made under section 55, 56 or 59 no less than once every 30 days while the order is in effect.

Shorter review period for certain orders

(2) The Chief Public Health Officer shall review the following orders no less than once every 48 hours while the order is in effect:

- (a) isolation order under paragraph 55(2)(b);
- (b) order prohibiting or restricting the person from attending a school, a place of employment or other public place or using a public conveyance under paragraph 55(2)(d);
- (c) order to remain in a specified place under paragraph 55(2)(f);
- (d) order to avoid physical contact with, or being near, a person, animal or thing under paragraph 55(2)(g);
- (e) supervision order under paragraph 55(2)(h);
- (f) order to submit to treatment under paragraph 55(2)(l);
- (g) quarantine order under paragraph 55(3)(b);
- (h) apprehension or treatment order under section 56.

Submission of evidence

(3) Any person who is subject to an order referred to in subsection (1) or (2) may submit evidence to the Chief Public Health Officer.

Consideration of evidence

(4) The Chief Public Health Officer shall consider the evidence submitted under subsection (3) in reviewing the order.

Termination or variation of order

(5) If, after reviewing the order, the Chief Public Health Officer reasonably believes that the order is, or conditions within the order are, no longer necessary to protect public health, the Chief Public Health Officer must immediately terminate the order, or vary or remove its terms or conditions, as applicable.

Privative clause

68. (1) An order or decision made, confirmed or varied by the Chief Public Health Officer is final and shall not be questioned or reviewed in any court, except as provided for in subsection (2).

Judicial review

(2) If there has been a denial of natural justice or an excess of jurisdiction, an application for a judicial review of an order or decision of the Chief Public Health Officer under this Act may be made within 30 days of the order or decision in accordance with the rules of court made under the *Judicature Act* and the practice and procedure of the Court for an originating application.

No automatic stay or suspension

(3) An appeal or application under section 66, a review under section 67, or an application for judicial review under subsection (2) do not operate as a stay or suspend the operation of the order or decision unless the Chief Public Health Officer or the judge hearing the matter decides otherwise.

PART 9

INSPECTIONS AND SEARCHES

Inspections

Right to enter and inspect

69. (1) Subject to subsection (3), for the purpose of ensuring compliance with any provision of this Act, the regulations or an order made under this Act, an environmental health officer may, at any reasonable time, enter and inspect any place, without a warrant.

Show identification

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

Dwelling

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

- (a) the occupant or person in charge of the dwelling consents;
- (b) the inspection is authorized by a warrant; or
- (c) the dwelling, or something in or only accessible through the dwelling, is a serious and immediate risk to public health.

Inspection powers

(4) During an inspection of a place referred to in subsection (1), the environmental health officer may, for the purpose of ensuring compliance with any provision of this Act, the regulations or an order

- (a) open or cause to be opened any container whose contents may be relevant for the purpose of ensuring compliance;
- (b) inspect any thing;
- (c) take samples of any substance, thing, liquid, gas, or animal;
- (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 72 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 environmental health officer all reasonable assistance to enable him or her to carry out his or her functions; and
- (b) provide the environmental health officer with any information in relation to the administration of this Act that he or she may reasonably require.

Delegation

(6) An environmental health officer may, on consent, delegate a specific and time limited inspection power to a nurse, conservation officer, by-law officer or peace officer if he or she believes that

- (a) the inspection must be performed without delay; and
- (b) he or she is unable to perform the inspection due to his or her illness, absence or other inability.

Searches

Searches

70. If an environmental health officer believes, on reasonable grounds, that an offence under this Act has been committed, the officer 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 environmental health 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

71. (1) In carrying out an inspection or search under this Act, an environmental health 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 72,
 - (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 environmental health 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 environmental health officer; or
- (b) otherwise obstruct or hinder the environmental health officer, other than by refusing entry to a place where the environmental health officer requires a warrant to enter the place.

Stopping a vehicle or other conveyance

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

Compliance

(4) When instructed by an environmental health officer under this section, a person shall stop or move the vehicle or other conveyance.

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

72. (1) If, during the course of an inspection, an environmental health officer has reasonable grounds to believe that a thing is a risk to public health or may provide evidence for the purpose of ensuring compliance with any provision of this Act, the regulations or an order made under this Act, the officer may seize, detain and carry away the thing if

- (a) the seizure is authorized by a warrant;
- (b) distance, urgency or other relevant factors do not reasonably permit the obtaining of a warrant and the thing is a serious and immediate risk to public health; or
- (c) in the case of food, the food is in a condition described in subsection 23(2).

Seizures during searches

(2) If, during the course of a search, an environmental health officer has reasonable grounds to believe that a thing is evidence in relation to an offence under this Act, the 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 the obtaining of a warrant.

Disposition of Things Seized

Receipt for things seized

73. (1) If an environmental health officer seizes a thing under this Act, other than a sample taken pursuant to paragraph 69(4)(c), the officer shall issue a receipt describing the thing seized to the person from whom it was seized.

Examination of thing seized

(2) An environmental health officer may have a thing seized under this Act examined.

Destruction or disposal

(3) A thing seized under this Act may be destroyed or otherwise disposed of safely under the direction of an environmental health officer without making an application for disposition under section 74, if he or she has reasonable grounds to believe that

- (a) there is nothing of value to be returned;
- (b) the thing presents an imminent or serious health hazard; or
- (c) in the case of food, the food is in a condition described in subsection 23(2) or will be in that condition before the disposition can be considered under section 74.

Right to reclaim thing seized

(4) If a thing seized under this Act is no longer a risk to public health and 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 environmental health 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 environmental health 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 environmental health officer shall ensure that proper custody of a thing seized under this Act is maintained pending disposition under section 74.

Application for disposition

74. (1) An environmental health officer shall, as soon as practicable, bring the seizure of a thing under this Act before a justice or judge, unless the thing was destroyed, disposed of, reclaimed or unclaimed under section 73.

Affidavit

(2) The environmental health officer shall provide the justice or judge with an affidavit stating

- (a) his or her grounds for believing that the thing seized
 - (i) is a risk to public health;
 - (ii) may provide evidence for the purpose of ensuring compliance with any provision of this Act, the regulations or an order made under this Act; or
 - (iii) 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 environmental health 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.

Limitation on powers

Information, records or data

74.1. The powers under sections 69 to 72 and subsections 73(2) and (3) 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

75. (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 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, the regulations or an order made 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 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 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 thing, animal or document;
- (g) require any person present in the place to give all reasonable assistance to the person named in the warrant to enable him or her to exercise powers and perform duties under this Act or the regulations.

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 (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 thing, animal or document;
- (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

76. (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 he or she considers 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 himself or herself, provide a copy of the warrant and explain the purpose of the warrant.

Telewarrants

Telewarrants

77. (1) Where an environmental health officer believes that an offence under this Act has been committed and that it would be impracticable to appear personally before a justice or judge to apply for a warrant, the environmental health officer may submit an information on oath or affirmation to a justice or a judge by telephone or other means of telecommunication.

Authority of telewarrant

(2) A justice or judge referred to in subsection (1) may issue a warrant conferring the same authority respecting a search or seizure as may be conferred by a warrant issued by a justice or a judge before whom an officer appears personally under this Act, and section 487.1 of the *Criminal Code* (Canada) applies with such modifications as the circumstances require.

Same

(3) A warrant as provided for in this section is sufficient authority to the environmental health officer to whom it was originally directed, to any other environmental health officer, and to any other named person, to execute the warrant and to deal with things seized in accordance with this Act or as otherwise provided by law.

Assistance

Request for assistance

78. (1) A person appointed under this Act may request the assistance of the following persons in enforcing this Act, the regulations or orders made under this Act and give them instructions for that purpose:

- (a) a peace officer;
- (b) a conservation officer;
- (c) an inspector appointed under the *Environmental Protection Act*;
- (d) a by-law officer;
- (e) a nurse.

Powers and protections

(2) The powers and protections of a person requesting assistance under subsection (1) apply to and may be exercised by the persons referred to in paragraphs (1)(a) to (e) while acting under the instructions of the person requesting assistance.

Oaths and affirmations

Power to administer oaths and affirmations

79. An environmental health officer may administer an oath or affirmation as if he or she 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.

PART 10

OFFENCES AND PENALTIES

Offence

80. (1) A person who contravenes or fails to comply with this Act, the regulations or an order made under this Act is guilty of an offence.

Penalties

(2) A person who commits an offence under this Act is liable on summary conviction

- (a) for a first offence,
 - (i) in the case of a corporation, to a fine not less than \$1,000 and not exceeding \$500,000, or
 - (ii) in the case of an individual, to a fine not less than \$100 and not exceeding \$50,000, to imprisonment for a term of not more than one year, or to both a fine and imprisonment; or
- (b) for a second or subsequent offence,
 - (i) in the case of a corporation, to a fine not less than \$1,000 and not exceeding \$1,000,000, or
 - (ii) in the case of an individual, to a fine not less than \$100 and not exceeding \$100,000, to imprisonment for a term of not more than one year, or to both a fine and imprisonment.

Continuing offence

(3) A person who commits or continues an offence on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Exception

(4) A person who, in application of the *Donation of Food Act*, is not liable for damages with respect to a donation of food shall not be prosecuted or convicted for contravening

- (a) paragraph 23(2)(a) or (c), or regulations made under section 85 directly related to those paragraphs, with respect to that donation;
- (b) section 25, paragraph 26(1)(e), subsection 26(2), paragraph 27(1)(b) or (c), or regulations made under section 85 directly related to those provisions, with respect to the operation of a water

supply system for the sole purpose of manual donation of water or manual distribution of donated water that, for greater certainty, is not linked to any commercial or contractual transaction or relationship with the person receiving the donated water.

Liability of corporate officers

81. 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 to the punishment provided for the offence as an individual, whether or not the corporation has been prosecuted.

Limitation period

82. No prosecution with respect to an alleged offence pursuant to this Act or any regulations, or orders made pursuant to this Act is to be commenced after three years from the day on which the Chief Public Health Officer became aware or ought to have become aware of the alleged offence.

Additional fine

83. If a person is convicted of an offence and the justice or judge is satisfied that monetary benefits accrued or could have accrued to the person as a result of the commission of the offence,

- (a) the justice or judge may order the person to pay an additional fine in an amount equal to the amount of the monetary benefits;
- (b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act; and
- (c) the additional fine is to be added to any other fine or amount of money ordered to be paid under this Act.

Other orders

84. (1) When convicting a person for an offence under this Act, the justice or judge may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order

- (a) directing the person to, within a period specified in the order but not exceeding three months,
 - (i) take any action that the justice or judge considers appropriate to remedy or avoid any harm that resulted or may result from the commission of the offence,
 - (ii) publish, in any manner that the justice or judge considers appropriate, the facts relating to the commission of the offence, or
 - (iii) pay to the Consolidated Revenue Fund an amount for all or any of the cost of remedial or preventive action taken, or to be taken, by or on behalf of the Government of Nunavut as a result of the commission of the offence;
- (b) directing the person to perform up to 240 hours of community service in accordance with any conditions that the justice or judge

- considers reasonable and within a period specified in the order but not exceeding 18 months; or
- (c) requiring the person to, for a period specified in the order not exceeding one year,
- (i) not do any act or engage in any activity that could, in the opinion of the justice or judge, result in the continuation or repetition of the offence,
 - (ii) comply with any other conditions that the justice or judge considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences, or
 - (iii) submit to the Minister, on application to the justice or judge by the Minister, any information about the activities of the person that the justice or judge considers appropriate.

Bond or security

(2) As part of an order made under subparagraph (1)(a)(i), the justice or judge may require the person to post a bond or security or pay to the court an amount that the justice or judge considers appropriate for the purpose of ensuring compliance with any direction or requirement under this section.

Return of bond or security

(3) A bond or security posted or a payment made under subsection (2) shall be returned to the person who posted or made it if the person substantially complies with the order within the specified period.

Forfeiture of bond or security

(4) A bond or security posted or a payment made under subsection (2) is forfeited to the Government of Nunavut if the person who posted or made it fails to substantially comply with the order within the specified period.

Minister publishes facts

(5) If a person fails to comply with an order directing the person to publish the facts relating to the commission of an offence, the Minister may publish those facts and recover the costs of publication from the person.

Debt

(6) An amount ordered to be paid under subparagraph (1)(a)(iii), including any interest, constitutes a debt due to the Government of Nunavut and may be recovered as such in any court of competent jurisdiction.

PART 11

REGULATIONS, GUIDELINES AND OTHER MATTERS

Regulations and Guidelines

Regulations

85. (1) The Commissioner in Executive Council, on the recommendation of the Minister, may make regulations for carrying the purposes and provisions of this Act into effect and, without restricting the generality of the foregoing, may make regulations

- (a) respecting public health standards related to the location, design, construction and operation of
 - (i) personal service facilities,
 - (ii) establishments that provide accommodation, including hotels, bed and breakfasts and lodging houses,
 - (iii) recreational facilities, including public pools, saunas, hot tubs, public parks and playgrounds, and any adjoining facilities,
 - (iv) camps, and
 - (v) laundry and dry cleaning facilities;
- (b) respecting public health standards related to sanitation generally;
- (c) respecting sewage and sewage systems, including
 - (i) the location, design, construction and operation of sewage systems,
 - (ii) the collection, handling, storage and transportation of sewage,
 - (iii) public health standards for sewage systems;
- (c.1) respecting waste and waste disposal systems, including
 - (i) the location, design, construction and operation of waste disposal systems,
 - (ii) the collection, handling, storage and transportation of waste,
 - (iii) public health standards for waste disposal systems;
- (d) respecting the manufacture, processing, preparation, packaging, labelling, storage, handling, display, transportation, distribution, serving and sale of food, including
 - (i) public health standards for premises, establishments, operators, food handlers and vending machines,
 - (ii) nutritional content,
 - (iii) prohibiting or regulating ingredients,
 - (iv) respecting meat processing, and
 - (v) respecting milk and milk products;
- (e) respecting hazardous materials in food and consumer products and the seizure and recall of food and consumer products;

- (f) respecting the training and qualifications of persons working in businesses, establishments or regulated premises;
- (g) respecting drinking water and the location, design, construction and operation of water supply systems, including
 - (i) the approval and inspection of water sources,
 - (ii) the cutting, storage, distribution and sale of ice intended for human consumption,
 - (iii) the disinfection or treatment of water in a water supply system,
 - (iii.1) the addition of chemicals in the water supply system,
 - (iv) the monitoring, sampling and analysis of water from water sources or in or from a water supply system,
 - (v) the collection, production, handling, storage, supply, transportation or distribution of drinking water,
 - (vi) the public health standards for premises and equipment in the water supply system, and
 - (vii) water quality standards;
- (h) respecting the handling, storage, transportation, interment, disinterment, reinterment and disposal of dead bodies, both human and animal;
- (i) respecting the prevention of overcrowding of premises used for human occupation and places of public assembly, and the fixing of the amount of air space to be allowed for each individual in those premises and places;
- (j) respecting the prevention and removal of unsanitary conditions on public or private property and the cleansing of public and private streets, lanes, yards, lots and other open spaces;
- (k) respecting any industry or occupation that may be injurious to public health, including
 - (i) the use of hazardous materials,
 - (ii) the abatement of unsanitary conditions or conditions dangerous to the public health, and
 - (iii) the protection of the health of persons exposed to conditions, substances or processes;
- (l) respecting personal services, including prescribing additional classes of personal services;
- (m) respecting standards for emergency shelters;
- (n) respecting health hazards, including their definition, classification, detection, reporting, prevention, prohibition, regulation, reduction, mitigation and activities and matters that create, cause or contribute to health hazards;
- (o) respecting reportable events, including
 - (i) prescribing persons who must report reportable events,
 - (ii) prescribing health care professionals who need not provide patient advice,
 - (iii) prescribing the contents of the report;

- (p) prescribing and classifying communicable diseases, virulent communicable diseases, zoonotic diseases and non-communicable diseases;
- (q) respecting diseases, including
 - (i) their prevention, detection and control,
 - (ii) the hospitalization, treatment and isolation of persons and animals with a communicable disease,
 - (iii) the regulation or prohibition of work by persons infected with or exposed to a communicable disease,
 - (iv) orders with respect to diseases,
 - (v) the quarantine or detention for observation and surveillance of persons and animals that have or may have been exposed to a communicable disease,
 - (vi) facilities for the examination, treatment, isolation or quarantine of persons and animals, and
 - (vii) the cleansing, purification, disinfection or deinfestation of persons, animals, premises or things exposed to a communicable disease;
- (r) respecting health information and records established under this Act, including the collection, security, maintenance, access, use and disclosure of health information;
- (s) respecting public health surveillance, including the collection, protection and sharing of health information across jurisdictions;
- (t) respecting reports from officials appointed under this Act and the mandatory reporting and disclosure of health information by the Government of Nunavut to individuals at risk or to the general public;
- (u) respecting public health emergencies, including
 - (i) the control of the movement of people and conveyances, and
 - (ii) the procurement, distribution and availability of medical supplies, aid, equipment and health services in a public health emergency;
- (v) respecting disease prevention measures, including the immunization of humans and animals and the supply and distribution of vaccine;
- (w) respecting the detection, investigation, notification, treatment, prevention and control of non-communicable diseases and other health conditions;
- (x) respecting the medical and dental inspection of school children and of the occupants of any institution;
- (y) respecting injury prevention;
- (z) respecting inspection reports and ratings;
- (aa) in respect of any activity related to matters that are subject to this Act or the regulations,
 - (i) requiring a licence, permit or approval,

- (ii) respecting the issuance of licences, permits and approvals, and appeals from decisions in respect of licences, permits and approvals,
- (iii) prescribing the terms and conditions attached to licences, permits and approvals, or providing for the setting of terms and conditions by the Chief Public Health Officer, and
- (iv) respecting the amendment, suspension, cancellation and renewal of licences, permits and approvals;
- (ab) respecting fees to be paid in relation to any matter regulated or any service provided under this Act or the regulations, including fees for inspections, approvals, information, permits and licences;
- (ac) respecting persons appointed under this Act, including
 - (i) required qualifications,
 - (ii) duties, powers and functions, and
 - (iii) the criteria that a person must use in exercising a power under this Act or the regulations in addition to any other criteria established under this Act;
- (ad) respecting information management, including the retention, disclosure, and destruction of records;
- (ae) respecting the service of documents, including the dispensing of service and substituted service;
- (af) respecting the public health standards for camps, including any matter regulated under sections 33 and 34;
- (ag) respecting the inspection, sampling, testing, examination and analysis of persons, places or things, including orders in respect of those matters;
- (ah) respecting the enforcement of this Act and the regulations, including the issuing of orders in relation to persons, premises or things and the seizure, detention, return and forfeiture of things under this Act;
- (ai) prescribing institutions and classes of institutions;
- (aj) prescribing persons who must report health hazards;
- (ak) exempting any person, place or thing from any or all of the provisions of this Act or the regulations on terms and conditions that may be specified by the Commissioner in Executive Council, unless such an exemption has serious adverse public health effects;
- (al) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (am) establishing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (an) prescribing anything that this Act allows or requires to be prescribed;
- (ao) respecting any other matter or thing necessary or advisable for carrying out the purposes and provisions of this Act; and
- (ap) for any purpose for which regulations are authorized to be made.

Application of regulations

(2) The regulations may

- (a) include different provisions for different areas;
- (b) establish classes of persons, animals, places, activities, diseases, conditions, events or things for the purposes of the regulations;
- (c) apply to persons, animals, places, activities, diseases, conditions, events or things specifically or by class; and
- (d) include different provisions for different persons, animals, places, activities, diseases, conditions, events or things, or for different classes of persons, animals, places, activities, diseases, conditions, events or things.

Adoption of rules or standards

86. The regulations may incorporate by reference a code of rules or standards that has been established by an association, person or body of persons and is available in written form, as established or as amended from time to time, and upon incorporation the code has force of law to the extent and with such variations as may be specified in the regulations.

Guidelines

87. The Chief Public Health Officer may establish guidelines respecting the application of the provisions of this Act and the regulations, including

- (a) the management, surveillance and prevention of diseases;
- (b) food safety;
- (c) water safety;
- (d) sanitation, including sewage and solid waste management;
- (e) public health in camps;
- (f) injury prevention;
- (g) the treatment and care of persons who are isolated or quarantined or who are subject to involuntary treatment; and
- (h) public health standards for food, including its nutritional content, that is served or made available
 - (i) in institutions or other facilities owned, operated or funded by the Government of Nunavut, or
 - (ii) through programs operated or funded by the Government of Nunavut.

Notice of guidelines

88. (1) On establishing or amending a guideline under section 87, the Chief Public Health Officer shall provide a notice

- (a) identifying the guideline;
- (b) in the case of an amendment, specifying the provisions of the guideline which have been amended;
- (c) specifying the provisions of this Act or the regulations to which the guideline relates;

- (d) stating the effective date of the guideline; and
- (e) indicating where copies of the guideline can be obtained.

Manner of notice

(2) Notice referred to in subsection (1) may be provided by

- (a) sending a copy of the notice to any person that is subject to the guideline;
- (b) ensuring that a copy of the notice is conspicuously posted in any place where the guideline must be followed; or
- (c) publishing a copy of the notice in the *Nunavut Gazette*.

Compliance with guidelines

89. (1) Subject to subsection (2), any person subject to a guideline established by the Chief Public Health Officer shall make reasonable efforts to comply with the guideline.

Application

(2) Unless a notice of a guideline has been published in the *Nunavut Gazette* under paragraph 88(2)(c), subsection (1) only applies to a person where a copy of the notice of the guideline

- (a) has been received by that person; or
- (b) is conspicuously posted in the place where the guideline must be followed.

No prosecution where guideline unavailable

(3) No prosecution may be commenced for an offence related to a contravention of this section that occurred while the relevant guideline could not be obtained in the manner specified in the most recent notice of the guideline, unless the alleged offender had knowledge of the contents of the guideline.

Statutory Instruments Act

90. The *Statutory Instruments Act* does not apply to a directive, direction, form, guideline or order made under this Act.

Saving and Transitional

Records

91. The information in the registers established under the *Disease Registries Act*, R.S.N.W.T. 1988, c. 7(Supp.) and the information obtained under the authority of the *Public Health Act*, R.S.N.W.T. 1988, c. P-12 prior to the coming into force of this section is deemed, on the coming into force of this section, to be part of the records established and maintained under section 15.

Health Officer

92. (1) A person appointed as a Health Officer under subsection 3(2) of the *Public Health Act*, R.S.N.W.T. 1988, c. P-12, for any Health District, is deemed, on the coming into force of this section, to have been appointed as an environmental health officer for the purposes of this Act.

Medical Health Officer

(2) A person appointed as a Medical Health Officer under subsection 3(2) of the *Public Health Act*, R.S.N.W.T. 1988, c. P-12, is deemed, on the coming into force of this section, to have been appointed as a medical health officer for the purposes of this Act.

Community Health and Wellness Committees

93. A committee established by a municipal council prior to the coming into force of this section for the purpose of providing information, advice and recommendation respecting local public health issues is deemed to be, on the coming into force of this section, a community health and wellness committee established under subsection 48(1).

Consequential Amendments and Repeals

Donation of Food Act

94. The *Donation of Food Act* is amended

(a) by adding the following before section 1:

Definition

0.1 In this Act, “food” has the same meaning as in the *Public Health Act*.

(b) in paragraphs 1(a) and 2(a) by adding “or unsafe” after “unfit”.

Disease Registries Act

95. The *Disease Registries Act*, R.S.N.W.T. 1988, c. 7 (Supp.), is repealed.

Education Act

96. Subsection 45(2) of the *Education Act* is amended by

(a) striking out “Chief Medical Health Officer” and substituting “Chief Public Health Officer”; and

(b) striking out “, as defined in that Act,”.

Former Public Health Act

97. The *Public Health Act*, R.S.N.W.T. 1988, c. P-12, is amended

(a) by renaming the Act as the *Camps Health Services Act*;

(b) by repealing sections 1 to 13 and substituting the following:

Definitions

1. In this Act,

"camp" includes a mining, prospecting, fishing, lumber, dredging or construction or other camp in which any skilled or unskilled labour is employed; (*camp*)

"environmental health officer" means an environmental health officer as defined in the *Public Health Act*. (*agent en hygiène de l'environnement*)

- (c) **by repealing section 14;**
- (d) **in paragraph 15(b) by striking out "Medical Health Officer" and substituting "medical health officer as defined in the *Public Health Act*";**
- (e) **in section 16**
 - (i) **by striking out "licensed medical practitioner" wherever it appears and substituting "medical practitioner", and**
 - (ii) **by striking out "licensed or duly qualified" in paragraph (f); and**
- (f) **in paragraph 18(2)(a) by striking out "the regulations" and substituting "an order";**
- (g) **in section 19**
 - (i) **by striking out "A Health Officer" and substituting "An environmental health officer", and**
 - (ii) **by striking out "the regulations" and substituting "an order";**
- (h) **by repealing sections 20 and 21;**
- (i) **in subsection 22(1)**
 - (i) **by striking out "A Health Officer" and substituting "An environmental health officer",**
 - (ii) **by striking out "the regulations" wherever it appears and substituting "an order", and**
 - (iii) **by striking out, in the English version, "as Health Officer" and substituting "as environmental health officer";**
- (j) **in subsection 22(2)**
 - (i) **by striking out "a Health Officer" and substituting "an environmental health officer", and**
 - (ii) **by striking out, in the English version, "the Health Officer" wherever it appears and substituting "the environmental health officer";**
- (k) **in section 23**
 - (i) **by striking out "the regulations" wherever it appears and substituting "an order",**

- (ii) **by striking out** “a Medical Health Officer or a Health Officer” **in paragraph (b) and substituting** “an environmental health officer”,
- (iii) **by adding, in the English version, “or” at the end of paragraph (b), and**
- (iv) **repealing paragraphs (c) and (d);**
- (l) **in the heading preceding section 24 by striking out** “REGULATIONS AND”;
- (m) **in section 24 by striking out** “or the regulations”; **and**
- (n) **by repealing section 25.**

Tobacco Control Act

98. Subsection 23(1) of the *Tobacco Control Act* is amended by striking out “Chief Medical Health Officer” and substituting “Chief Public Health Officer appointed under the *Public Health Act*”.

Vital Statistics Act

99. The *Vital Statistic Act* is amended

- (a) **in paragraph 9(2)(b) by striking out** “the local medical officer of health or”; **and**
- (b) **by repealing paragraph 40(4)(a) and the substituting the following:**
 - (a) a copy of the written consent of a medical health officer as defined in the *Public Health Act*, including any conditions attached to that consent;

Commencement

Coming into force

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