

Chapter 16

AN ACT TO AMEND THE INTEGRITY ACT

(Assented to May 16, 2013)

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

1. This Act amends the *Integrity Act*.

2. Section 36 is amended as follows:

(a) subsection 36(1) is repealed and the following substituted:

Request for review

36. (1) Subject to subsection (1.1), any person, including a member, who believes on reasonable grounds that a member has contravened this Act may request that the Integrity Commissioner review the facts and give a written report on the matter.

(b) the following is added after subsection 36(1):

Excluded persons

(1.1) The following persons are excluded from making a request under this section:

- (a) a person employed in the public service in the position of, or with management responsibility comparable to, a "deputy head", "acting deputy head", "Deputy Minister", "head of a secretariat of the Executive Council", "assistant deputy minister" or "associate deputy minister";
- (b) the chair and president, if any, of a "territorial corporation" specified in Schedule B of the *Financial Administration Act*;
- (c) any person in a position that provides support or advice directly to the Executive Council, a committee of the Executive Council or a member of the Executive Council;
- (d) the Clerk of the Legislative Assembly and all officers and employees of the Office of the Legislative Assembly; and
- (e) all independent officers of the Legislative Assembly, other than the Integrity Commissioner.

3. Subsection 40(2) is repealed and the following substituted:

Refusal to review

(2) If the Integrity Commissioner is of the opinion that the request for a review made under section 36 does not comply with that section, is frivolous, vexatious or not made in good faith or that there are insufficient grounds to warrant commencing a review, or to continue conducting a review, the Integrity Commissioner shall refuse to commence or to continue conducting a review and shall state the reasons for that refusal in his or her report.

4. Paragraph 41(1)(a) is repealed and the following substituted:

- (a) has the powers set out in sections 41.1 to 41.3 and all the powers of a Board under the *Public Inquiries Act*, including the power to engage the services of counsel, experts and other persons referred to in section 10 of that Act; and

5. The following is added after section 41:

Power to compel witnesses and disclosure

- 41.1** (1) The Integrity Commissioner may, by issuing a summons, require any person to
- (a) attend the review, in person or by electronic means, to provide testimony on oath or affirmation or in another manner; and
 - (b) produce for the review any information, document or thing under the person's power or control.

Attendance not necessary

(2) In requiring production under paragraph (1)(b), the Integrity Commissioner may or may not require that a person attend with the information, document or thing.

Confidential information

(3) Despite any other Act, the Integrity Commissioner may require the provision or production of information that is considered confidential or inadmissible under another enactment and the person in possession of that information shall disclose it to the Integrity Commissioner for the purposes of the review.

Protection of confidential information

(4) The Integrity Commissioner may impose conditions on the disclosure of information at the review to protect the confidentiality of that information.

Deemed undertaking

(5) Subject to subsections (6) and (7), all participants and their lawyers or agents are deemed to undertake not to use information obtained from another participant or collected or received by the Integrity Commissioner for any purpose other than that of the review in which it was obtained.

Exceptions

- (6) Subsection (5) does not prohibit the following:
- (a) a use to which the person who disclosed the information consents;
 - (b) the use, for any purpose, of information that is disclosed to the public;
 - (c) the use, for any purpose, of information that is provided or referred to during a hearing;
 - (d) the use, for any purpose, of information obtained from information referred to in paragraph (b) or (c); and
 - (e) the use of information to impeach the testimony of a person in another proceeding or for a prosecution for perjury in respect of that testimony.

Order re exceptions

(7) If the Integrity Commissioner is satisfied that the interests of justice outweigh any prejudice that would result to a party who disclosed evidence, he or she may order that subsection (6) does not apply to the information, and may impose such terms and give such directions as are just in the circumstances.

Application for search warrant

41.2 (1) The Integrity Commissioner may apply, or authorize a person to apply, to a judge for a warrant to enter a place and conduct a search of the place, if there are reasonable grounds for believing that there are in any building, receptacle or place, including a dwelling house, any documents or things relevant to the subject matter of the review.

Issuance or warrant

(2) Upon application under subsection (1), a judge may issue a warrant, if he or she is satisfied on information under oath or affirmation that the warrant is necessary for the purposes specified in the application.

Powers

(3) The warrant may authorize a peace officer or person named in the warrant, upon producing the warrant and identification,

- (a) to enter and search any place specified in the warrant, including a dwelling house;
- (b) seize or demand the production of any documents or things relevant to the subject matter of the review;
- (c) question a person on any matter relevant to the search;
- (d) to do any of further things specified in the warrant.

Conditions on search warrant

(4) The warrant shall contain such conditions as the judge considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances.

Time of execution

(5) Any entry under the warrant shall be made at such reasonable times as may be specified in the warrant.

Expiry of warrant

(6) The warrant shall expire on the date of expiry specified in the warrant, which shall be no later than 15 days after the warrant is issued, but a judge may extend the date of expiry for an additional period of no more than 15 days, upon application without notice by the person named in the warrant.

Use of force

(7) The person authorized to execute the warrant may call upon peace officers for assistance in executing the warrant and a peace officer may use whatever force is reasonably necessary to execute the warrant.

Obligation to produce and assist

(8) On request by a peace officer or the person authorized to execute the warrant, a person shall produce all documents or things required under the warrant and provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form.

Return of removed things

- (9) A person executing a warrant who removes any document or thing from a place shall
- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both that person and the person authorized to execute the warrant; and
 - (b) return it to the person from whom it was removed within a reasonable time.

Obstruction prohibited

(10) No person shall obstruct or hinder a person in the execution of a warrant issued under this section.

Power to maintain order

41.3 (1) The Integrity Commissioner may make such orders or give such directions at a review as he or she considers proper to maintain order and to prevent the abuse of the Integrity Commissioner's processes.

Failure to comply

- (2) Without limiting any other power of enforcement, if a person fails to comply with a summons, order, directive or rule of the Integrity Commissioner or a warrant issued under this Act, the Integrity Commissioner may, after giving notice to the person,
- (a) continue with the review and make a finding or recommendation based on the information before the Integrity Commissioner, with or without providing an opportunity for submissions from that person; or
 - (b) make any order necessary for the purpose of compelling compliance with, or enforcing, the Integrity Commissioner's orders, directives or rules.

Enforcement of summons, order, directive or rule

(3) The Integrity Commissioner may call upon peace officers to enforce any summons, order, directive or rule of the Integrity Commissioner and such peace officers may take any action that is necessary to do so and may use such force as is reasonably required for that purpose.

Inherent power of Legislative Assembly

41.4 Nothing in this Act affects the inherent power of the Legislative Assembly with respect to its powers, privileges or prerogatives.