

Chapter 18

APPRENTICESHIP AND CERTIFICATION ACT

(Assented to June 8, 2021)

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APPRENTICESHIP AND CERTIFICATION ACT

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

Definitions

1. In this Act,

"appeal panel" means an appeal panel established under subsection 12(1); (*comité d'appel*)

"apprentice" means an individual who has a contract registered with the Director; (*apprenti*)

"Board" means the Apprenticeship and Certification Board continued under subsection 14(1); (*Commission*)

"board certificate" means a certificate established under paragraph 40(2)(c); (*certificat de la Commission*)

"certificate of competence" means a certificate issued to an individual who has achieved the level of expertise prescribed by regulation in a designated occupation; (*certificat de compétence*)

"certificate of qualification" means a certificate issued to an individual who has achieved the level of expertise prescribed by regulation in a designated trade; (*certificat d'aptitude*)

"certificate of status" means a certificate issued to an apprentice to indicate, in accordance with the regulations, the progress achieved by the apprentice; (*certificat de progression*)

"compulsory certification trade" means a trade that has been designated as a compulsory certification trade under paragraph 40(1)(c); (*métier à reconnaissance professionnelle obligatoire*)

"contract" means a contract of apprenticeship entered into under subsection 2(1); (*contrat*)

"designated occupation" means an occupation designated in the regulations; (*profession designée*)

"designated trade" means a trade designated in the regulations; (*métier désigné*)

"Director" means the Director of Apprenticeship and Certification appointed under subsection 13(1); (*directeur*)

"inspector" means an inspector appointed under subsection 19(1); (*inspecteur*)

"journey person" means an individual who possesses a valid certificate of qualification in a designated trade; (*compagnon*)

"Red Seal Endorsement" means a Red Seal Endorsement recognized by the Canadian Council of Directors of Apprenticeship; (*mention Seau rouge*)

"register" means a register maintained by the Director under subsection 13(3); (*register*)

"skilled trades worker" means an individual who possesses a skilled trades worker certificate; (*travailleur dans un métier spécialisé*)

"skilled trades worker certificate" means a certificate issued to an individual who has achieved a level of expertise prescribed by regulation in a designated trade that is less than the level of expertise required for a certificate of qualification; (*certificat de travailleur dans un métier spécialisé*)

"sole practitioner" means an individual who practices a designated trade independent of an employer, including as an independent subcontractor or as the sole employee of a corporation owned by the individual; (*travailleur exerçant seul*)

"trade qualifier" means an individual who has accumulated sufficient practical work experience to meet the requirements under this Act to attempt a qualification examination; (*travailleur qualifié*)

"trainee" means an individual who is participating in training leading to the issuance of

- (a) a certificate of competence,
- (b) a skilled trades worker certificate, or
- (c) a board certificate; (*stagiaire*)

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

APPRENTICESHIPS AND CERTIFICATION

Contract of apprenticeship

2. (1) An individual who wishes to obtain a certificate of qualification in a designated trade, and an employer who undertakes to employ the individual as an apprentice to learn the designated trade, shall enter into a contract of apprenticeship.

Age restriction

(2) An employer shall not enter into a contract with an individual under the age of 16 years.

Approved form

(3) A contract must be in a form approved by the Director.

Application to register

(4) The parties to a contract must, in accordance with the regulations, submit the contract to the Director for registration.

Registration of contracts

(5) The Director shall register a contract submitted under subsection (4) if the Director is of the opinion that

- (a) the contract complies with this Act and the regulations;
- (a.1) if applicable, the employer and the contract comply with the requirements respecting the employment of minors under
 - (i) the *Education Act*, and
 - (ii) the *Labour Standards Act* and its regulations.
- (b) the parties to the contract will carry out their respective responsibilities under the agreement; and
- (c) the contract is for the benefit of the apprentice.

No effect until registration

(6) A contract has no effect until it is registered by the Director under subsection (5).

Effect of registration

(7) An individual whose contract is registered with the Director and remains valid is

- (a) entitled to use the title "apprentice"; and
- (b) registered in with the Director as an apprentice.

Credit for previous training and experience

(8) Subject to the regulations, the Director may, upon registering a contract, grant credit in an apprenticeship program to an apprentice in recognition of the apprentice's previous training and experience in the designated trade.

No credit after registration

(9) Subject to an appeal under sections 11 and 12, credit may not be granted after a contract has been registered.

Assignment of contract

- 3.** (1) An employer may only assign a contract to another employer with
- (a) the prior written approval of the Director;
 - (b) the consent of the apprentice; and
 - (c) for greater certainty, the consent of the new employer.

Transfer of contract

(2) An apprentice may only transfer their contract to another employer with the prior written approval of the Director.

Variation of contract

(3) The parties to a contract may only vary the terms of the contract with the prior written approval of the Director.

Conditions for variation

(4) The Director may not approve the variation of a contract if the new contract does not comply with the provisions of subsection 2(5).

Amending registration

(5) When a contract is assigned, transferred or varied under this section, the Director shall make the necessary amendments to the registers.

Completion of contract

4. (1) When a contract has been completed, a party to the contract may apply to the Director to certify completion of the contract.

Certifying completion

(2) Following an application under subsection (1), the Director shall certify the completion of a contract if the Director is satisfied that the contract has been completed in accordance with this Act and the regulations.

Deregistration

(3) Upon certifying the completion of the contract, the Director shall deregister the contract and maintain a record of the contract and its completion.

Termination of contract on consent

5. (1) The parties to a contract may jointly terminate a contract with the prior written approval of the Director.

Application to terminate contract

(2) A party to a contract may apply to the Director to terminate the contract.

Contents of application

- (3) An application under subsection (2) must
- (a) be in a form approved by the Director;
 - (b) include the reasons why the contract should be terminated; and
 - (c) if applicable, include evidence in support to the application.

Opportunity to respond

- (4) Following an application under subsection (2), the Director shall
- (a) notify the other party of the application and its contents in accordance with the regulations; and
 - (b) provide the other party a reasonable opportunity to provide arguments and evidence in support of not terminating the contract.

Termination of contract for cause

(5) Following an application under subsection (2) and an examination of the materials provided under subsection (3) and (4), the Director may terminate the contract in accordance with the regulations if the applicant shows good cause for the termination.

Termination by Director

(6) The Director may, by giving written notice to the parties to a contract, terminate the contract

- (a) if the parties fail, for a period prescribed by regulation, to provide the records of progress in the apprenticeship that are required under this Act; or
- (b) if the work experience and training provided under the contract fail to comply with the requirements of this Act and the regulations; or
- (c) for any other breach of the contract that, in the opinion of the Director, is sufficiently serious to merit a termination of the contract.

Deregistration

(7) When a contract is terminated under this section, the Director shall deregister the contract and maintain a record of

- (a) the contract and its termination; and
- (b) the credits that an apprentice has gained under the contract.

Technical training

(8) If a contract is terminated under this section, the Director may permit the apprentice to continue attending technical training courses related to the apprenticeship for a period of up to one year.

Registration of trainees

6. An individual who is enrolled in a training program accredited under this Act that leads to the granting of a certificate of competence, a skilled trades worker certificate or a board certificate may register as a trainee by submitting an application to the Director in a form approved by the Director.

Application for a certificate

7. (1) An individual may apply for the following certificates by submitting an application under subsection (2) to the Director:

- (a) a certificate of qualification in a designated trade;
- (b) a certificate of qualification in a designated trade with a Red Seal Endorsement;
- (c) a certificate of competence in a designated occupation;
- (d) a skilled trades worker certificate;
- (e) a board certificate;
- (f) a certificate of completion of apprenticeship;
- (g) a certificate of status;
- (h) a replacement certificate of any of the certificates listed paragraphs (a) to (g).

Contents of application

- (2) An application under subsection (1) must
- (a) be in a form approved by the Director; and
 - (b) except in the case of a replacement certificate, include evidence demonstrating that the applicant is entitled to be issued the certificate under this Act.

Certificates of qualification

(3) The following individuals are entitled to be issued a certificate of qualification in a designated trade:

- (a) an individual who has received a certificate of completion of a contract under this Act;
- (b) a trade qualifier who passes a qualification examination;
- (c) an individual who is recommended for certification under section 8.

Red Seal Endorsement

(4) An individual is entitled to be issued a certificate of qualification in a designated trade with a Red Seal Endorsement if they

- (a) have been or are entitled to be issued a certificate of qualification under this Act; and
- (b) pass a Red Seal examination established by the Canadian Council of Directors of Apprenticeship.

Certificate of competence

(5) An individual is entitled to be issued a certificate of competence in a designated occupation if they

- (a) are registered as a trainee under this Act; and
- (b) have completed a training program accredited under this Act that leads to the granting of a certificate of competence in the occupation.

Skilled trades worker certificate

(6) An individual is entitled to be issued a skilled trades worker certificate in a designated trade if they

- (a) are registered as a trainee under this Act; and
- (b) have completed a training program accredited under this Act that leads to the granting of a skilled trades worker certificate in the trade.

Board certificate

(7) An individual is entitled to be issued a board certificate if they

- (a) are registered as a trainee under this Act; and
- (b) have completed a training program accredited under this Act that leads to the granting of the board certificate.

Other certificates

(8) An individual is entitled to a certificate referred to in paragraph (1)(f) or (g) if they meet the requirements prescribed in the regulations for that certificate.

Replacement certificate

(9) An individual is entitled to be issued a replacement certificate if they have previously been issued a certificate under this Act, and that certificate is not suspended or terminated.

Additional information

(10) The Director may request an applicant for a certificate or replacement certificate to provide additional information or documents that the Director considers necessary to ensure compliance with the Act and regulations, and any such additional information or documents must be provided in order for the application to be considered by the Director.

Issuance of certificate

(11) Following an application under subsection (1), the Director shall issue the requested certificate or replacement certificate if the applicant is entitled to be issued the certificate.

Certification by attestation – purpose

8. (1) The purpose of this section is to recognize the historical lack of appropriate supports for Nunavummiut who wanted to become journeypersons and to create a temporary ameliorative program for the recognition of the skills and expertise of Nunavummiut

- (a) who fulfill the functional requirements of a journeyperson without having received formal training; and
- (b) whose level of academic skills hampers their ability to pass a qualification examination.

Certification by attestation – documentation

(2) An application for certification by attestation must include

- (a) a statement of the applicant's work history that is sworn or solemnly affirmed by the applicant and must include at least 15 years of experience in the trade
 - (i) on or after April 1, 1999, in Nunavut, or
 - (ii) before April 1, 1999, in the Northwest Territories as it then existed; and
- (b) competency reports in a form approved by the Director that have been completed and sworn or solemnly affirmed by two individuals who have been issued a certificate of qualification in the trade under this Act.

Verification – designation

(3) The Director shall designate a journeyperson who is independent of the individuals referred to in paragraph (2)(b) to examine an application for certification by attestation.

Verification – process

(4) The journeyperson designated under subsection (3) may, for the purpose of determining whether the applicant fulfills the functional requirements of a journeyperson and the standards and requirements prescribed by regulation,

- (a) request further information from the applicant;

- (b) request a competency report referred to in paragraph (2)(b) from a third individual; and
- (c) interview the applicant or the individuals referred to in paragraph (2)(b).

Recommendation

(5) Following the verification, the journey person designated under subsection (3) shall recommend to the Director that the applicant be, or not be, issued the certificate of qualification.

Repeal

(6) This section and paragraph 7(3)(c) are repealed on the tenth anniversary of the coming into force of paragraph 7(3)(c).

Definition

9. (1) In this section, "application" includes any action taken under this Act to register, to receive approval, to become certified or to receive any other right or benefit under this Act.

False or missing information or documents

(2) If the Director has reason to believe that a person made a false statement or produced false information or documents, or failed to produce information or documents required under this Act, in support of an application submitted to the Director, the Director may re-evaluate the application, whether or not a decision has already been made on the application.

Re-evaluation

(3) In a re-evaluation under subsection (1), the Director may re-evaluate the application, in the same manner as the original application under this Act, taking into account any information and documents that should have been provided by the applicant in their initial application.

Re-evaluation – decision

- (4) Following a re-evaluation under subsection (1), the Director may
- (a) make any decision that the Director could have made in the original application; and
 - (b) revoke any registration, approval, certificate, or other right or benefit that the applicant should not have received under this Act.

APPEALS

Appointment of Appeals Coordinator

10. (1) The Minister shall appoint an Appeals Coordinator who is independent of the Director.

List of panelists

(2) The Minister maintain a list of panelists consisting of the following individuals who, as a group, have a sufficient breadth of knowledge to enable the establishment of appeal panels in accordance with subsections 12(1) and (2):

- (a) individuals representative of employers and supervisors;

- (b) individuals representative of employees and sole practitioners;
- (c) individuals recommended by the Board who are not individuals described in paragraph (a) or (b).

Right to appeal – individuals

11. (1) An individual subject to one of the following decisions of the Director may, within 30 days after receiving written notice of the decision, appeal the decision by filing a notice of appeal with the Appeals Coordinator:

- (a) a refusal to register a contract to which the individual is a party under subsection 2(5);
- (b) the termination of a contract to which the individual is a party under section 5;
- (c) a refusal to issue or reissue a certificate under section 7;
- (d) a refusal to grant the individual credit under subsection 2(8);
- (e) a refusal to permit a trade qualifier to attempt a qualification examination;
- (f) a decision following a re-evaluation under section 9;
- (g) the refusal to issue an exemption under paragraph 13(4)(d).

Right to appeal – facilities and programs

(2) A person subject to a decision of the Director to not approve facilities used for training or to not accredit a trade or occupation program may, within 30 days after receiving written notice of the decision, appeal the decision by filing a notice of appeal with the Appeals Coordinator.

Notice of appeal

- (3) A notice of appeal under this section must include
- (a) the provision of this Act or the regulations that the appellant believes has been misapplied;
 - (b) the reasons for the appeal;
 - (c) any evidence the appellant wishes to provide in support of the appeal; and
 - (d) any information prescribed by regulation.

Appeal panel

12. (1) Within 30 days after receipt of a notice of appeal under section 11, the Appeals Coordinator shall establish an appeal panel consisting of the following members:

- (a) one panelist who is representative of employers and supervisors;
- (b) one panelist who is representative of employees and sole practitioners; and
- (c) one panelist who was appointed under paragraph 10(2)(c).

Criteria for appointment

(2) Panelists selected under subsection (1) must be, in the opinion of the Appeals Coordinator, knowledgeable about the designated trade or designated occupation to which the appeal relates.

Powers and duties of appeal panel

(3) An appeal panel

- (a) shall select a chairperson from among its members;
- (b) is not subject to the rules of evidence applicable to judicial proceedings;
- (c) may hold hearings
 - (i) in writing,
 - (ii) in person, or
 - (iii) by any reasonable means of communication;
- (d) shall conduct its proceedings in accordance with the requirements of natural justice; and
- (e) makes decisions by vote of the majority of its members.

Notice of hearing

(4) If a hearing is to be held in person or by remote means, the appeal panel shall, as soon as practicable,

- (a) fix a date and time for hearing the appeal;
- (b) fix a place for the hearing of the appeal or determine the remote means by which the hearing will be held; and
- (c) give written notice of the hearing to the person appealing and the Director at least five days before the hearing date.

Director is party

(5) The Director is a party to an appeal under this section.

Decision

(6) On concluding a hearing, an appeal panel may

- (a) dismiss the appeal; or
- (b) make any decision the Director could have made; or
- (c) refer the matter back to the Director for further consideration in accordance with the direction of the appeal panel.

Notification

(7) The appeal panel shall notify the appellant, the Director, the Board and the Appeals Coordinator of its decision in writing.

Director's obligation

(8) If an appeal panel makes a decision under paragraph (6)(b), the Director shall take all steps within the purview of the Director that are necessary to implement the decision.

Decision final

(9) A decision of an appeal panel under subsection (6) is final and binding.

Publication

(10) The Appeals Coordinator shall publish decisions made under subsection (6) in accordance with the regulations.

ADMINISTRATION

Appointment of Director

13. (1) The Minister shall appoint a Director of Apprenticeship and Certification.

Direction of Minister

(2) The Director shall act under the direction of the Minister.

Duties of the Director

(3) The Director shall

- (a) maintain a register of apprentices, trainees and journeypersons;
- (b) maintain a register of contracts registered under subsection 2(5), including assignments, transfers and variances;
- (c) maintain records of contracts and terminations and completions of contracts;
- (d) maintain records of certificates and endorsements issued under this Act;
- (e) in accordance with the standards and requirements prescribed by regulation, administer the training and examination of individuals seeking certificates of qualification, certificates of competence and board certificates;
- (f) with the consent of the Board and in accordance with the regulations, accredit trade and occupation training programs and facilities, or revoke such accreditation;
- (g) monitor and generally oversee the training of apprentices and trainees;
- (h) approve forms for the purposes of this Act;
- (i) advise the Minister of matters related to this Act and the regulations;
- (j) assist and advise the Board in carrying out its mandate and functions; and
- (k) carry out other duties assigned to the Director by the Minister.

Powers of Director

(4) The Director may

- (a) require and approve periodic tests or examinations of apprentices and trainees;
- (b) require and approve final examinations and qualification examinations for individuals seeking certificates of qualification, certificates of competence, skilled trades worker certificates or board certificates;
- (c) inspect facilities being used for the training of apprentices and trainees under this Act; and
- (d) exempt an individual or an employer for the application of subsection 36(6).

Delegation

(5) The Director may delegate, in writing, any of the Director's duties or powers under this Act or the regulations.

In writing

(6) When refusing to provide approval or certification under this Act, the Director shall provide written reasons for the refusal.

Board continued

14. (1) The Apprenticeship, Trade and Occupations Certification Board is continued as the Apprenticeship and Certification Board.

Mandate

- (2) The mandate of the Board is to
- (a) guide the trades and occupations training and certification system to be responsive, flexible and accessible to all Nunavummiut;
 - (b) promote trades and occupations training and certification as a means for Nunavummiut to enhance their employment and career opportunities;
 - (c) support employer, employee and sole practitioner participation in training and certification;
 - (d) to establish and maintain on-going contact with employers, employees and sole practitioners for the purpose of informing the work of the Board;
 - (e) advise the Minister on
 - (i) the needs of Nunavummiut who are seeking to develop their skills and obtain high-quality training in designated trades or occupations, and
 - (ii) the present and future needs of the Nunavut labour market for individuals skilled and trained in the designated trades and occupations; and
 - (f) carry out the functions assigned to the Board under this Act.

Composition

15. (1) The Board is composed of seven to nine members appointed by the Minister, including

- (a) at least two members representing the interests of employers or supervisors;
- (b) at least two members representing the interests of employees or sole practitioners; and
- (c) at least one member who
 - (i) does not possess a certificate issued under this Act,
 - (ii) represents the interest of the public, and
 - (iii) has expertise that would contribute to the operation of the Board.

Term

- (2) The members of the Board
- (a) are appointed for a term not exceeding three years; and
 - (b) may not be appointed for cumulative terms exceeding six years, not including any terms that precede a break in service of at least one year.

Qualifications

- (3) The following qualifications requirements apply to the membership of the Board:
- (a) all members must
 - (i) be knowledgeable about designated trades, designated occupations or the needs of the Nunavut labour market for skilled and trained individuals, and
 - (ii) fulfil the criteria for membership prescribed by regulation;
 - (b) at least half of the members of the Board must possess a certificate of qualification or a certificate of competence.

Chairperson

- (4) The Minister shall designate a member of the Board as chairperson of the Board.

Advisors

(5) The Board may appoint no more than four advisors to participate, but not vote, in the proceedings of the Board.

Diversity

(6) The Minister and the Board shall endeavour to have the members and advisors of the Board reflect the cultural, ethnic, regional and gender composition of the population of Nunavut.

Meetings of the Board

- 16.** (1) The chairperson shall convene one to six meetings of the Board each year, which may be held
- (a) in person; or
 - (b) by any reasonable remote means that allows for simultaneous voice communication.

Voting

- (2) The Board makes its decisions by
- (a) a majority vote of the members of the Board present at a meeting, excluding the chairperson; or
 - (b) in the case of a tie under paragraph (a), the vote of the chairperson.

Quorum

- (3) A quorum of the Board is the majority of members then holding office.

Functions of the Board

- 17.** (1) The Board may recommend that
- (a) the Minister designate or de-designate a trade or occupation;
 - (b) the Minister designate or de-designate a trade as a compulsory certification trade;
 - (c) the Minister make regulations under subsection 40(2); or
 - (d) the Director accredit or revoke the accreditation of a training program or facility under paragraph 13(3)(f).

Consultation for certain functions

(2) Prior to recommending the making of regulations under subsection 40(2), the Board shall make reasonable efforts to solicit the opinions of the persons who would potentially be affected by the making of the proposed regulations.

Ministerial request

(3) The Board shall perform such functions as are directed by the Minister with respect to any matter under this Act.

By-laws

- (4) The Board may, with the approval of the Minister, make by-laws
- (a) respecting the conduct of the business and affairs of the Board in carrying out its mandate and functions under this Act; and
 - (b) respecting meetings of the Board.

Legislation Act

(5) Parts 3 to 5 of the *Legislation Act* do not apply to the by-laws made under subsection (4).

ADVISORY COMMITTEES

Request for advisory committee

18. (1) If the Director considers it necessary to establish an advisory committee to aid the Director under subsection (3), the Director may request the Board to establish the advisory committee.

Establishment of advisory committee

(2) Within 30 days after the receipt a request under subsection (1), or such longer time as the Director may specify, the Board shall establish an advisory committee consisting of individuals that the Board considers qualified to assist the Director in the matter.

Functions of advisory committee

(3) An advisory committee established under this section shall, at the request of the Director,

- (a) advise and assist the Director in matters relating to designated trades and designated occupations;
- (b) advise and assist the Director in matters relating to apprentices, trainees, trade qualifiers, skilled trades workers and journeypersons;
- (c) perform the role of an examining board; and
- (d) perform any other duties assigned by the Director.

INSPECTIONS AND SEARCHES

Inspections

Appointment

19. (1) The Director may appoint inspectors for the purposes of this Act.

Powers of peace officers

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

Right to enter and inspect

20. (1) Subject to subsection (3), for the purpose of ensuring compliance with any provision of this Act or the regulations, an inspector may, at any reasonable time, enter and inspect any place, without a warrant.

Show identification

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

Dwelling

- (3) Despite subsection (1), the inspector shall not enter or inspect a dwelling unless
- (a) the occupant or person in charge of the dwelling consents; or
 - (b) the inspection is authorized by a warrant.

Inspection powers

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

- (a) open or cause to be opened any container whose contents may be relevant for the purpose of ensuring compliance;
- (b) inspect any thing;
- (c) make audio, photo or video recordings of the place or any thing;
- (d) require any person to produce any record or data for inspection in whole or in part; and
- (e) in accordance with section 23, seize any record, or a thing the inspector reasonable believes contains a record, 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 inspector all reasonable assistance to enable them to carry out their functions; and
- (b) provide the inspector with any information in relation to the administration of this Act that they may reasonably require.

Delegation

(6) An inspector may, on consent, delegate a specific and time limited inspection power to a by-law officer or peace officer if the inspector believes that

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

Searches

Searches

21. If an inspector believes, on reasonable grounds, that an offence under this Act has been committed, the inspector 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 inspector 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

22. (1) In carrying out an inspection or search under this Act, an inspector may

- (a) use or cause to be used any computer system and examine any data contained in or available to the computer system;
- (b) reproduce or cause to be reproduced any record or data;
- (c) print or export any record or data for examination or copying; and
- (d) use or cause to be used any copying equipment at the place to make copies of the record or data.

Obstruction

(2) While an inspector 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 inspector; or
- (b) otherwise obstruct or hinder the inspector, other than by refusing entry to a place where the inspector requires a warrant to enter the place.

Warrant

(3) 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

23. (1) If, during the course of an inspection, an inspector has reasonable grounds to believe that a record, or a thing the inspector reasonably believes contains a record, may provide evidence for the purpose of ensuring compliance with any provision of this Act or the regulations, the inspector may seize, detain and carry away the record or thing if the seizure is authorized by a warrant.

Seizures during searches

(2) If, during the course of a search, an inspector has reasonable grounds to believe that a record, or a thing the inspector reasonably believes contains a record, is evidence in relation to an offence under this Act, the inspector may seize, detain and carry away the record or 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.

Originals

(3) Despite subsections (1) and (2), an inspector may only seize the original of a record, or a thing the inspector reasonable believes contains a record, if

- (a) the inspector is unable to make a reproduction or other copy of the record; or
- (b) a reproduction or other copy of the record would be insufficient for the purpose for which the inspector requires the record.

Disposition of Things Seized

Receipt for records or things seized

24. (1) If an inspector seizes a record or thing under this Act, the inspector shall issue a receipt describing the record or thing seized to the person from whom it was seized.

Examination of record or thing seized

(2) An inspector may have a record or thing seized under this Act examined.

(3) **Deleted: 5th Legislative Assembly, 1 June, 2021**

Right to reclaim thing seized

- (4) If a record or thing seized under this Act is no longer needed as evidence,
- (a) the inspector 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 records and things

(5) If the owner or the person from whom the record or thing was seized under this Act does not reclaim it within 14 days after being notified under subsection (4), the inspector who seized it may destroy or otherwise dispose of it.

Custody and disposition of things seized

(6) Subject to subsections (2) to (5), an inspector shall ensure that proper custody of a record or thing seized under this Act is maintained pending disposition under section 25.

Application for disposition

25. (1) An inspector shall, as soon as practicable, bring the seizure of a record or thing under this Act before a justice or judge, unless the record or thing was destroyed, disposed of, reclaimed or unclaimed under section 24.

Affidavit

- (2) The inspector shall provide the justice or judge with an affidavit stating
- (a) their grounds for believing that the record or thing seized
 - (i) 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
 - (ii) may provide evidence of an offence under this Act;
 - (b) the name of the person, if any, having physical possession of the record or thing at the time it was seized; and
 - (c) where the record or thing is and how it was dealt with.

Disposition

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

- (a) order the record or thing delivered to the owner or person entitled to it;
- (b) order the record or thing to be held as evidence in a proceeding relating to the record or thing;
- (c) order the record or thing to be destroyed or otherwise disposed of safely under the direction of an inspector;
- (d) order that the record or thing be forfeited to the Government of Nunavut;
- (e) order the Government of Nunavut to provide fair compensation to the owner of the record or thing or the person entitled to it.

Limitation on powers

Information, records or data

26. The powers under sections 20 to 23 and subsection 24(2) may not be used with respect to information, records or data except to the extent that doing so is

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

Warrants

Inspection warrant

27. (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 or the regulations; 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 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 or record;
- (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

28. (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 themselves, provide a copy of the warrant and explain the purpose of the warrant.

Telewarrants

Telewarrants

29. (1) Where an inspector 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 inspector 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 inspector appears personally under this Act, and section 487.1 of the *Criminal Code* applies with such modifications as the circumstances require.

Same

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

Assistance

Request for assistance

30. (1) An inspector may request the assistance of the following persons in enforcing this Act or the regulations made under this Act and give them instructions for that purpose:

- (a) a peace officer;
- (b) a by-law officer.

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) or (b) while acting under the instructions of the person requesting assistance.

Oaths and affirmations

Power to administer oaths and affirmations

31. An inspector 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.

GENERAL PROVISIONS

Immunity

32. A person having powers or duties under this Act or the regulations is not personally liable for any loss or damage suffered by reason of anything done or not done by them in good faith in the exercise of their powers, in the performance of their functions or duties under this Act or the regulations.

Honoraria and expenses

33. The following shall be paid honoraria and reimbursed their expenses in accordance with directives issued under section 5 of the *Financial Administration Act*:

- (a) members of appeal panels;
- (b) members of the Board; and
- (c) members of advisory committees established under section 18.

Labour disputes

34. An employer shall not require an apprentice or trainee to do the work of any person engaged in a lawful cessation of work arising out of a labour dispute.

Recognition of extra-territorial certificates

35. Subject to the regulations and paragraph 39(c), a certificate in a designated trade or a designated occupation issued to an individual under the laws of a province or other territory is a certificate of qualification or a certificate of competence for the purposes of this Act, except where this Act or the regulations require a certificate of qualification or a certificate of competence issued under this Act.

OFFENCES AND PUNISHMENT

Use of titles

36. (1) A person shall not hold themselves out as or represent themselves to be an apprentice, skilled trades worker or journeyman unless they are registered as such under this Act, or otherwise entitled to use the relevant title under this Act.

Use of title – Red Seal

(2) A person shall not use the title "Red Seal" unless they are the holder of certificate that bears a Red Seal Endorsement.

Use of titles by other persons

(3) A person shall not knowingly purport to employ, train or contract with an individual as an apprentice, skilled trades worker or journeyman unless the individual is registered as such under this Act, or otherwise entitled to use the relevant title under this Act.

Apprenticing without registration

(4) A person shall not work as an apprentice unless they are registered as an apprentice under this Act.

Training and work following submission of contract

(4.1) Nothing in subsection (4) precludes an individual whose contract has been submitted for registration under subsection 2(4) from

- (a) receiving training or gaining work experience in the relevant designated trade pending the registration of the contract; or
- (b) being granted credit for that training and experience under subsection 2(8).

Training programs and facilities

(5) Unless accreditation has been granted under paragraph 13(3)(f) and the accreditation is in effect, a person shall not

- (a) offer a trade or occupation training program purporting to qualify an individual as an apprentice, skilled trades worker or journeyman;
- (b) offer a trade or occupation training program purporting to qualify an individual for a certificate under this Act; or
- (c) use a training facility for the purposes of programs referred to in paragraph (a) or (b).

Compulsory trades

- (6) A person shall not work in a compulsory certification trade unless they
- (a) hold a certificate of qualification or skilled trade worker certificate in the trade;
 - (b) are an apprentice in the trade;
 - (c) are permitted to work in the trade by the regulation; or
 - (d) are subject to an exemption under paragraph 13(4)(d) with respect to the trade.

Fraudulent information or documents

37. A person shall not knowingly make a false statement or produce false information or documents under this Act or the regulations.

Offences and punishment

38. (1) A person who contravenes the following provisions is guilty of an offence and liable on summary conviction to a fine stipulated in subsection (2), to imprisonment for a term of not more than six months, or to both a fine and imprisonment:

- (a) subsection 2(2);
- (b) subsection 20(5);
- (c) subsection 22(2);
- (d) section 34;
- (e) section 36;
- (f) section 37;
- (g) a provision of the regulations that is designated in the regulations.

Maximum fines

- (2) The fine referred to in subsection (1) is not more than
- (a) \$10,000, in the case of an individual; or
 - (b) \$100,000, in the case of a corporation.

Civil consequence of conviction

39. If an individual is convicted of an offence under this Act, the Director may suspend or terminate

- (a) a certificate issued to the individual under this Act;
- (b) a contract to which the individual is party under this Act; or
- (c) the recognition of the individual's extra-territorial certification in Nunavut under section 35.

REGULATIONS

Regulations

- 40.** (1) The Minister may make regulations
- (a) designating a trade that is eligible for apprenticeship and for which an individual may receive a certificate of qualification;
 - (b) designating a trade for which an individual may receive a skilled trades worker certificate;

- (c) subject to subsection (3), designating a trade as being a compulsory certification trade;
- (d) permitting work in a compulsory certification trade without a certificate of qualification or a contract;
- (e) providing for exceptions to interjurisdictional mobility under section 35;
- (f) designating an occupation, other than a trade designated under paragraph (a), as an occupation for which an individual may receive a certificate of competence;
- (g) respecting certificates of completion of apprenticeship and certificates of status;
- (h) respecting trade and occupation training programs and facilities, including
 - (i) establishing qualifications for providers of training programs,
 - (ii) prescribing standards and requirements for training programs,
 - (iii) respecting the accreditation of training programs and facilities;
 - (iv) providing for recognition of all or part of a training program for the purposes of an apprenticeship or skilled trades worker training program,
 - (v) for granting credit for previous training and experience in an apprenticeship or skilled trades worker training program,
 - (vi) prescribing terms and conditions respecting the Director's accreditation of training programs, education programs, or parts of such programs, and
 - (vii) prescribing terms and conditions respecting the Director's accreditation of training facilities;
- (i) respecting examinations under this Act, including
 - (i) their content, and
 - (ii) the pass mark;
- (j) respecting contracts, including
 - (i) submission of contracts to the Director,
 - (ii) termination of contracts for cause,
 - (iii) maintaining and providing records with respect to contracts,
 - (iv) the duties of the parties to a contract;
- (k) respecting the number of apprentices that may be supervised by a journeyman employed in designated trade;
- (l) respecting the content of forms to be used under this Act;
- (m) respecting appeals, including
 - (i) information to be included in a notice of appeal,
 - (ii) the procedure for appeals, and
 - (iii) the manner of publishing decisions of appeal panels;
- (n) prescribing criteria for Board membership;
- (o) respecting notices under this Act;
- (p) providing for the manner in which the Director shall maintain registers, including the information to be included in the registers;
- (q) respecting the issuance of certificates under section 7, including conditions for their issuance;

- (r) respecting the issuance of identification cards for the purposes of this Act, and their production;
- (s) subject to the *Labour Standards Act* and other applicable laws, prescribing the working conditions, hours of labour and rates of wages of apprentices;
- (t) respecting the collection, sharing, retention and use of personal information collected by the Director under this Act;
- (u) designating provisions of the regulations to which section 38 applies; and
- (v) for the carrying out of the purposes and provisions of this Act.

Regulations by Board recommendation

- (2) The Minister may, on the recommendation of the Board, make regulations
 - (a) establishing standards and requirements with respect to training and certification in respect of a designated trade or designated occupation;
 - (b) prescribing the levels of expertise required for the issuance of certificates under this Act; and
 - (c) establishing certificates other than those otherwise provided for under this Act, and providing for the requirements for eligibility for and the issuance of the certificates.

Compulsory certification trade

(3) Before making regulations to designate a trade as a compulsory certification trade, the Minister shall consult with the Board and any other person, association or organization that the Minister considers appropriate, and be satisfied that

- (a) the work of the trade is clearly defined;
- (b) the trade will not overlap with or duplicate the work of an existing trade, except as prescribed by regulation; and
- (c) the designation of the trade as a compulsory certification trade will result in improved public and journey person safety and will benefit Nunavummiut.

Transitional

Existing certificates

41. (1) Any certificates that were issued under the *Apprenticeship, Trade and Occupations Certification Act*, R.S.N.W.T. 1988,c.A-4, prior to its repeal by this Act remain valid and are deemed to have been issued under this Act.

Existing contracts

(2) Any contract that was certified under the *Apprenticeship, Trade and Occupations Certification Act*, R.S.N.W.T. 1988,c.A-4, prior to its repeal by this Act, and was in effect on the repeal of that Act by this Act, remains valid and is deemed to have been registered under this Act.

Statutory Instruments Act

42. Until the coming into force of section 154 of the *Legislation Act*, the *Statutory Instruments Act* does not apply to by-laws made under subsection 17(4) or forms approved under this Act.

Consequential amendment

Electrical Protection Act

43. Paragraph (a) of the definition of "qualified electrical worker" in subsection 1(1) of the *Electrical Protection Act* is repealed and replaced by

- (a) a journeyperson, as defined in the *Apprenticeship and Certification Act*, in the trade of electrician,

Coordinating amendment

44. Subsection 16(3) is repealed on the later of

- (a) Assent; and
- (b) the coming into force of subsection 34(2) of the *Legislation Act*.

Repeal

45. The *Apprenticeship, Trade and Occupations Certification Act*, R.S.N.W.T. 1988,c.A-4, is repealed.

Coming into force

46. (1) This Act, other than section 44, comes into force on a day to be fixed by order of the Commissioner.

(2) Section 44 comes into force on Assent.