

Chapter 12

LIQUOR TAX ACT

(Assented to November 8, 2022)

TABLE OF CONTENTS

TABLE DES MATIÈRES

Interpretation			Définitions et interprétation
Definitions	1	(1)	Définitions
Purported retail seller		(2)	Prétendu détaillant
<i>Liquor Act</i> definitions		(3)	Définitions de la <i>Loi sur les boissons alcoolisées</i>
Liquor Tax			Taxe sur les boissons alcoolisées
Liquor tax – purchased liquor	2	(1)	Taxe sur les boissons alcoolisées – achat de boissons alcoolisées
Liquor tax – imported liquor		(2)	Taxe sur les boissons alcoolisées – introduction de boissons alcoolisées
Liquor tax – unauthorized importation		(3)	Taxe sur les boissons alcoolisées – introduction non autorisée
Exemptions		(4)	Exemptions
Refund – delivery outside Nunavut		(5)	Remboursement – livraison à l’extérieur du Nunavut
No authorization		(6)	Absence d’autorisation
Liability	3	(1)	Assujettissement
Debt		(2)	Dettes
Notification by collector		(3)	Avis du collecteur
Liability of collector		(4)	Responsabilité du collecteur
Prohibition against absorption of tax	4		Interdiction : absorption de la taxe
Tax Collection			Perception de la taxe
Collection of tax – retail seller	5	(1)	Perception de la taxe – détaillant
Collection of tax – liquor import permit issuer		(2)	Perception de la taxe – délivrance d’un permis d’introduction de boissons alcoolisées
Trust money	6	(1)	Détention en fiducie
Debt		(2)	Dettes
Presumption		(3)	Présomption
Direct payments		(4)	Paievements directs
Security	7	(1)	Garantie
Failure to furnish security		(2)	Défaut
Compliance – order to stop issuing liquor import permits		(3)	Respect – Ordre d’arrêter la délivrance de permis d’introduction de boissons alcoolisées
Compliance – closure of premises		(4)	Respect – fermeture des locaux
Registration of collectors			Inscription des collecteurs
Application for registration	8	(1)	Demande d’inscription
Registration		(2)	Inscription

Refusal to register	(3)	Refus d'inscrire
Unauthorized sellers	(4)	Vendeurs non autorisés
Registration certificate	(5)	Certificat d'inscription
Registration not transferrable	(6)	Inscription non transférable
Commission deemed to be registered	(7)	Commission réputée inscrite
Exemption – issuers of liquor import permits	(8)	Exemption – délivrance de permis d'introduction de boissons alcoolisées
Prohibition – retail sellers	(9)	Interdiction – détaillants
Prohibition – issuers of liquor import permits	(10)	Interdiction – délivrance de permis d'introduction de boissons alcoolisées
Validity of registration	9 (1)	Validité de l'inscription
Notification	(2)	Avis
Return of registration certificate	(3)	Remise du certificat d'inscription
Property of government	10	Biens du gouvernement
Records and Reports		Dossiers et rapports
Maintenance of records	11	Tenue des dossiers
Reports by collectors	12 (1)	Rapports des collecteurs
Reports by a former collector	(2)	Rapports des anciens collecteurs
Determination in case of failure	13 (1)	Décision en cas de défaut
Determining price	(2)	Établissement du prix
Civil sanctions		Sanctions civiles
Contravention	14 (1)	Contravention
Notice of proposed action	(2)	Avis de la mesure envisagée
Employees or agents	(3)	Employés ou mandataires
Limits on warnings	(4)	Limites applicables aux avertissements
Multiple administrative penalties	(5)	Pénalités administratives multiples
Former collector	(6)	Ancien collecteur
Failure to pay administrative penalty	(7)	Non-paiement d'une pénalité administrative
Notice	(8)	Avis
Sanction does not preclude conviction	(9)	Poursuite pénale en sus d'une sanction
Exemption – issuers of liquor import permits	(10)	Exemption – délivrance de permis d'introduction de boissons alcoolisées
Administrative penalty – failure to collect tax	15 (1)	Pénalité administrative – non-perception des taxes
Administrative penalty – failure to remit	(2)	Pénalité administrative – non-remise
Presumption – collector	(3)	Présomption – collecteur
Administrative penalty – failure to pay tax	(4)	Pénalité administrative – non-paiement de la taxe
Presumption – consumer	(5)	Présomption – consommateur
Exemption – consumer who pays tax	(6)	Exemption – consommateur qui paie la taxe
Administrative penalty – failure to pay tax on unauthorized import	(7)	Pénalité administrative – non-paiement de la taxe en cas d'introduction non autorisée
Payment of administrative penalty does not reduce debt	(8)	Dettes non réduites en cas de paiement de la pénalité administrative
Suspensions	16 (1)	Suspensions
Cancellations	(2)	Annulations
Commission exempt	(3)	Non-application à la Commission
Appeal to Court	17 (1)	Appel à la Cour
Failure to pay administrative penalty	(2)	Non-paiement d'une pénalité administrative

Party	(3)	Partie
Administrative penalty – payment into court	(4)	Pénalité administrative – consignation au tribunal
Administrative penalty – return or deposit of monies	(5)	Pénalité administrative – remise ou dépôt du montant
Administrative penalty – question on appeal	(6)	Pénalité administrative – question en appel
Administrative penalty – decision	(7)	Pénalité administrative – décision
Administrative penalty – lack of mental element	(8)	Pénalité administrative – absence d’élément psychologique
Suspension or cancellation – stay	(9)	Suspension ou annulation – sursis
Suspension or cancellation – decision	(10)	Suspension ou annulation – décision
Costs	(11)	Dépens
Assessment of unpaid tax debt		Cotisation relative à la dette fiscale impayée
Notice of assessment	18 (1)	Avis de cotisation
No need to specify powers	(2)	Mention de la mesure non nécessaire
No collection within notice period	(3)	Pas de recouvrement pendant la période d’avis
No order or seizure within notice or appeal period	(4)	Pas d’ordre ni de saisie pendant la période d’avis ou d’appel
Partial appeal	(5)	Appel partiel
Appeal to Nunavut Court of Justice	19 (1)	Appel à la Cour de justice du Nunavut
Party	(2)	Partie
Hearing	(3)	Instruction
Interim measures	(4)	Mesures provisoires
Return or deposit of monies	(5)	Remise ou dépôt du montant
Costs	(6)	Dépens
Collection of unpaid tax debt		Recouvrement des dettes fiscales impayées
Instalment payments	20 (1)	Versements échelonnés
Conditions	(2)	Conditions
Collection	(3)	Recouvrement
Termination of agreement	(4)	Résiliation de l’entente
Effect of termination	(5)	Effet de la résiliation
Certificate	21 (1)	Certificat
Effect of filing	(2)	Effet du dépôt
Third-party demand	22 (1)	Paiement par un tiers
Discharge of liability of third party	(2)	Quittance du tiers
Discharge of liability of tax debtor	(3)	Quittance du débiteur fiscal
Liability of third party	(4)	Obligation du tiers
Seizure for purposes of forfeiture	23 (1)	Saisie à des fins de confiscation
Powers of tax inspector	(2)	Pouvoirs de l’inspecteur des taxes
Seizure in place	(3)	Saisie sur les lieux
Seizure in place – prohibitions	(4)	Saisie sur les lieux – interdictions
Forfeiting seized liquor	(5)	Confiscation des boissons alcoolisées saisies
Commission's obligation	(6)	Obligation de la Commission
Not in sellable condition	(7)	État invendable
Determining value	(8)	Établissement de la valeur
Order to cease operations	24 (1)	Ordre de cessation des activités
Order – duration	(2)	Ordre – durée
Notification	(3)	Avis

Prohibition – retail seller	(4)	Interdiction – détaillant
Prohibition – others	(5)	Interdiction – autres personnes
Other methods of enforcement	25	Autres modes d’exécution
Exercise of multiple powers	26	Exercice de pouvoirs multiples
Liability for collection action	27	Responsabilité relative aux mesures de recouvrement

Inspections

Right to enter and inspect	28	(1)
Show identification		(2)
Dwelling		(3)
Inspection powers		(4)
Assistance		(5)
Delegation		(6)

Inspections

Droit d’entrer et d’inspecter
Obligation de révéler son identité
Lieu d’habitation
Pouvoirs d’inspection
Assistance
Délégation

Searches

Searches	29
----------	----

Perquisitions et fouilles

Perquisitions et fouilles

Additional Powers

Operation of equipment	30	(1)
Obstruction		(2)
Stopping a vehicle or other conveyance		(3)
Compliance		(4)
Warrant		(5)

Pouvoirs additionnels

Utilisation de l’équipement
Entrave
Immobilisation d’un véhicule ou d’un autre moyen de transport
Obligation d’obtempérer
Mandat

Seizures

Seizures during inspections	31	(1)
Seizures during searches		(2)
Seizure for forfeiture		(3)

Saisies

Saisies pendant les inspections
Saisies lors de la perquisition ou de la fouille
Saisie à des fins de confiscation

Disposition of Things Seized

Receipt for things seized	32	(1)
Examination of thing seized		(2)
Destruction or disposal		(3)
Right to reclaim thing seized		(4)
Unclaimed things		(5)
Custody and disposition of things seized		(6)
Application for disposition	33	(1)
Affidavit		(2)
Disposition		(3)
Exception		(4)

Disposition des choses saisies

Récépissé remis pour les choses saisies
Examen de la chose saisie
Destruction ou disposition
Droit de récupérer l’objet saisi
Choses non récupérées
Garde et disposition des choses saisies
Demande de disposition
Affidavit
Disposition
Exception

Limitation on powers

Information, records or data	34
------------------------------	----

Restriction des pouvoirs

Renseignements, dossiers ou données

Warrants

Inspection warrant	35	(1)
--------------------	----	-----

Mandats

Mandat d’inspection

Liquor Tax Act

Powers under inspection warrant	(2)	Pouvoirs conférés par le mandat d'inspection
Search warrant	(3)	Mandat de perquisition
Powers under search warrant	(4)	Pouvoirs conférés par le mandat de perquisition
Application without notice	(5)	Demande présentée sans préavis
Time of execution	36 (1)	Moment où le mandat doit être exécuté
Expiration and extension	(2)	Expiration et prorogation
Use of force	(3)	Recours à la force
Call for assistance	(4)	Demande d'assistance
Providing assistance	(5)	Identification
Identification	(6)	
Telewarrants		Télémandats
Telewarrants	37 (1)	Télémandat
Authority of telewarrant	(2)	Pouvoirs accordés par le télémandat
Same	(3)	Idem
Assistance		Assistance
Request for assistance	38 (1)	Demande d'assistance
Powers and protections	(2)	Pouvoirs et protections
Oaths and affirmations		Serments et affirmations solennelles
Power to administer oaths and affirmations	39	Pouvoir de faire prêter serment
Administration		Administration
Appointment of Director	40 (1)	Nomination du directeur
Appointment of tax inspectors	(2)	Nomination des inspecteurs des taxes
Protection from liability	41	Immunité
Use and disclosure of information	42	Utilisation et divulgation de renseignements
Offences and punishment		Infractions et peines
False statements	43 (1)	Fausse déclaration
Failure to collect tax	(2)	Non-perception des taxes
Other offences	(3)	Autres infractions
Punishment for other offences	(4)	Peines relatives aux autres infractions
Amount of tax	(5)	Montant de la taxe
Certificate	(6)	Certificat
Remedy for recovery	(7)	Recours en recouvrement
Continuing offence	44 (1)	Infraction continue
Repeated offence	(2)	Récidive
Liability of corporate officers	45	Responsabilités des dirigeants
Employees or agents	46	Employés ou mandataires
Seized liquor	47	Boissons alcoolisées saisies
Regulations		Règlements
Regulations	48 (1)	Règlements
Administrative penalties	(2)	Pénalités administrative
<i>Legislation Act</i>	(3)	<i>Loi sur la législation</i>

Liquor Tax Act

Related amendments		Modifications connexes
<i>Liquor Act</i>	49	<i>Loi sur les boissons alcoolisées</i>
Coming into force		Entrée en vigueur
Coming into force	50	Entrée en vigueur

LIQUOR TAX ACT

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

Interpretation

Definitions

1. (1) In this Act,

"collection action" means any action taken under sections 21 to 25; (*mesure de recouvrement*)

"collector" means a person required to collect tax under section 5; (*collecteur*)

"consumer" means a person who purchases liquor in or imports liquor to Nunavut for the purpose of consumption but, subject to any regulations respecting special occasion permits, does not include a person who purchases or imports liquor for lawful resale; (*consommateur*)

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

"Director" means the Director of Liquor Taxation appointed under subsection 40(1); (*directeur*)

"registered" means registered or deemed to be registered under section 8; (*inscrit*)

"registration" means a registration under section 8; (*inscription*)

"registration certificate" means a registration certificate issued under paragraph 8(2)(b); (*certificat d'inscription*)

"retail seller" means a person who, lawfully or unlawfully, sells liquor to consumers; (*détaillant*)

"serve" means serve in accordance with the regulations; (*signifier*)

"tax inspector" means a tax inspector appointed under subsection 40(2); (*inspecteur des taxes*)

"unpaid tax debt" means an amount of money that has become an unpaid tax debt due to the Government of Nunavut under this Act and has not been paid to the Government of Nunavut, plus any interest, penalties or expenses payable under this Act in relation that debt; (*dette fiscale impayée*)

"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*)

Purported retail seller

(2) With respect to any power or duty under this Act, "retail seller" includes any person that the person exercising the power or duty has reasonable grounds to believe is a retail seller.

Liquor Act definitions

(3) The definitions in subsection 1(1) of the *Liquor Act* apply to this Act.

Liquor Tax

Liquor tax – purchased liquor

2. (1) Every consumer must, when purchasing liquor, pay a tax at the rate established in the regulations.

Liquor tax – imported liquor

(2) Every consumer importing liquor to Nunavut must pay a tax at the rate established in the regulations when they obtain a liquor import permit under the *Liquor Act*.

Liquor tax – unauthorized importation

(3) Subject to paragraph (4)(c), every consumer importing liquor to Nunavut without a liquor import permit issued under the *Liquor Act* must, within 15 days after the import,

- (a) notify the Director in accordance with the regulations; and
- (b) pay to the Director a tax in the amount that would have been payable under subsection (2).

Exemptions

(4) The following activities are not subject to a tax under this Act:

- (a) brewing beer for personal or household consumption;
- (b) making wine under the authority of a wine permit;
- (c) importation of liquor without an import permit, in accordance with subsection 75(1) of the *Liquor Act*;
- (d) purchasing liquor on an aircraft or ship in circumstances that are prescribed by regulation.

Refund – delivery outside Nunavut

(5) A consumer who has paid a tax under this section may apply to the Director for a refund in accordance with the regulations if

- (a) the consumer is outside Nunavut;
- (b) the liquor is delivered outside Nunavut and the consumer does not take possession of the liquor in Nunavut; and
- (c) in the case of delivery in Canada, any applicable taxes have been paid in the province or other territory where the liquor is imported.

No authorization

(6) For greater certainty, nothing in this Act authorizes a person to purchase, sell or import liquor in contravention of the *Liquor Act*.

Liability

3. (1) A consumer is and remains liable for a tax payable under section 2 until the tax has been paid by the consumer.

Debt

(2) If a consumer fails to pay a tax payable under section 2 at the times referred to in that section, the amount of the tax

- (a) becomes an unpaid tax debt due to the Government of Nunavut;
- (b) subject to the *Bankruptcy and Insolvency Act* (Canada) and any other Act of Canada, has priority over all other claims of other person; and
- (c) bears interest in accordance with the *Financial Administration Act*.

Notification by collector

(3) When a collector fails to collect the tax from a consumer, the collector must immediately notify the Director of the fact in accordance with the regulations.

Liability of collector

(4) A collection action against a consumer for unpaid taxes does not affect the liability of the collector under this Act for failure to collect the tax.

Prohibition against absorption of tax

4. A retail seller must not advertise, hold out or state to the public or to any consumer directly or indirectly that the tax imposed under this Act, or any part of it,

- (a) will be assumed or absorbed by the retail seller;
- (b) will not be considered as an element in the price to the consumer;
- (c) will be rebated; or
- (d) will be refunded, except in the case of
 - (i) the sale price of the product also being refunded, or
 - (ii) a refund in accordance with subsection 2(5).

Tax Collection

Collection of tax – retail seller

5. (1) A retail seller must, as agent of the Government of Nunavut, collect the taxes payable under subsection 2(1) in respect of liquor sold by the retail seller.

Collection of tax – liquor import permit issuer

(2) A person who issues a liquor import permit must, as agent of the Government of Nunavut, collect taxes payable under subsection 2(2) in respect of liquor authorized to be imported under the liquor import permit.

Trust money

6. (1) A person who collects a tax payable under this Act

- (a) is deemed to hold it in trust for the Government of Nunavut; and
- (b) must remit it to the Government of Nunavut in accordance with the regulations.

Debt

- (2) If a person who has collected a tax payable under this Act fails to remit it to the Government of Nunavut in accordance with the regulations, the amount of the tax
- (a) becomes an unpaid tax debt due to the Government of Nunavut;
 - (b) is a lien on all liquor owned by the person in default;
 - (c) subject to the *Bankruptcy and Insolvency Act* (Canada) and any other Act of Canada, has priority over all other claims of other person; and
 - (d) bears interest in accordance with the *Financial Administration Act*.

Presumption

(3) In the absence of evidence to the contrary, all liquor found on the premises of a person is presumed to be owned by the person for the purposes of this Act.

Direct payments

(4) The Director must deposit any taxes collected under subsection 2(3) in the Consolidated Revenue Fund.

Security

7. (1) For the purpose of securing remissions to be made by a collector, the Director may, in accordance with the regulations, require the collector to provide security by way of a bond, cash or other security in the amount and form that the Director determines.

Failure to furnish security

- (2) If the collector fails to provide security required under subsection (1), the Director may, seven days after serving a notice of default,
- (a) in the case of a registered collector, suspend their registration until the security has been provided;
 - (b) in the case of a person who issues liquor import permits, order them to stop issuing liquor import permits until the security is provided; or
 - (c) in any other case, enter on and close the premises of the collector to the public until the security is provided.

Compliance – order to stop issuing liquor import permits

(3) A person must not issue liquor import permits while they are subject to an order under paragraph (2)(b).

Compliance – closure of premises

(4) The owner or occupier of a premises that has been closed under paragraph (2)(c) must not admit the public into the premises.

Registration of collectors

Application for registration

8. (1) Every collector must register by submitting an application to the Director in accordance with the regulations, accompanied by a registration fee prescribed by regulation.

Registration

(2) The Director must

- (a) subject to subsection (3), register a collector making an application under subsection (1) that is authorized to sell liquor to consumers under the *Liquor Act*; and
- (b) issue a registration certificate to every registered collector.

Refusal to register

(3) The Director may refuse to register a collector under paragraph (2)(a) if the Director is satisfied that the collector

- (a) has been convicted of an offence under this Act or the regulations;
- (b) has otherwise contravened this Act or the regulations; or
- (c) has been convicted of an offence prescribed by regulation.

Unauthorized sellers

(4) For greater certainty, the Director must not register a retail seller that is not authorized to sell liquor to consumers under the *Liquor Act*.

Registration certificate

(5) A registered collector must keep their registration certificate at their principal place of business.

Registration not transferrable

(6) A registration and registration certificate under this section is not transferrable.

Commission deemed to be registered

(7) The Commission is deemed to be registered under this section without an application and is exempt from any requirement under this Act to be issued or hold a registration certificate.

Exemption – issuers of liquor import permits

(8) The Minister responsible for Part I of the *Liquor Act* is not subject to registration as an issuer of liquor import permits.

Prohibition – retail sellers

(9) Despite having a licence or permit under the *Liquor Act*, a retail seller must not sell liquor to consumers if

- (a) they are not registered under this section;
- (b) their registration is suspended under this Act;
- (c) the liquor is seized in accordance with section 23; or
- (d) they are subject to an order under section 24.

Prohibition – issuers of liquor import permits

(10) Despite having been delegated the power to issue liquor import permits under subsection 15(2) of the *Liquor Act*, an issuer of liquor import permits, other than one described in subsection (8), must not issue liquor import permits if

- (a) they are not registered under this section; or
- (b) their registration is suspended under this Act.

Validity of registration

- 9.** (1) A registration under section 8 is voided by operation of law if
- (a) the registered collector
 - (i) in the case of an individual, dies, or
 - (ii) in the case of a corporation, is dissolved;
 - (b) the registered collector is no longer authorized to sell liquor to consumers under the *Liquor Act*, other than by reason of a licence suspension; or
 - (c) the registered collector returns their registration certificate to the Director.

Notification

- (2) A registered collector
- (a) must notify the Director in accordance with the regulations if they
 - (i) in the case of a retail seller, are no longer authorized to sell liquor to consumers under the *Liquor Act*, other than by reason of a licence suspension, or
 - (ii) in the case of an issuer of liquor import permits, is no longer authorized to issue liquor import permits under the *Liquor Act*; and
 - (b) may cancel their registration by notifying the Director in accordance with the regulations.

Return of registration certificate

(3) A registered collector must return their registration certificate to the Director when making a notification under subsection (2).

Property of government

10. A registration certificate is the property of the Government of Nunavut, and if a registration is cancelled, suspended or expired, the registered collector or former registered collector must return it to the Director as soon as practicable.

Records and Reports

Maintenance of records

11. A collector must maintain records of liquor sales, tax collection and other activities under this Act in accordance with the regulations.

Reports by collectors

- 12.** (1) A collector must submit reports on liquor sales, tax collection and other activities under this Act to the Director
- (a) in accordance with the regulations; and
 - (b) on a form approved by the Director.

Reports by a former collector

(2) A former collector must submit any forms required under subsection (1) for the time they were a collector.

Determination in case of failure

13. (1) If a collector fails to maintain records under section 11 or submit reports under section 12, or maintains records or makes reports that, in the opinion of the Director, are false, the Director may, for the purposes of this Act, make any reasonable determination with respect to the amount of liquor sold and the price for which it was sold.

Determining price

(2) If applicable, in determining a price for which liquor was sold under subsection (1), the Director must consider the price for which liquor is sold in similar circumstances.

Civil sanctions

Contravention

14. (1) Subject to subsections (2) and (4), if the Director has reasonable grounds to believe that a consumer or collector has contravened this Act or the regulations, the Director may

- (a) issue a warning to the consumer or collector;
- (b) order the consumer or collector to pay an administrative penalty in accordance with section 15 or, in the case of a registered collector, in accordance with the regulations; or
- (c) in the case of a registered collector other than the Commission, suspend or cancel their registration in accordance with section 16.

Notice of proposed action

(2) Prior to taking action under paragraphs (1)(b) or (c), the Director must serve a notice on the consumer or collector indicating

- (a) the nature of the contravention;
- (b) the provision of this Act or the regulations that the Director has reasonable grounds to believe has been contravened;
- (c) the proposed sanction;
- (d) a deadline for the consumer or collector to make representations respecting the contravention, which must be no less than 15 days after the day the notice is served; and
- (e) how to make representations to the Director.

Employees or agents

(3) For the purposes of this section and sections 15 to 17, a contravention by an employee or agent of a collector is deemed to be a contravention by the collector.

Limits on warnings

(4) The Director may not issue a warning under paragraph (1)(a) to a consumer or collector if

- (a) the contravention is more serious than a contravention that would warrant a simple warning; or
- (b) the contravention is of a type in respect of which a warning has already been given to the consumer or collector within one year before the day the contravention occurred.

Multiple administrative penalties

- (5) An order under paragraph (1)(b) may provide for the payment of
- (a) a separate administrative penalty for each occurrence of a contravention; and
 - (b) a separate administrative penalty for each provision of this Act or the regulations that was contravened.

Former collector

(6) For the purposes of ordering the payment of an administrative penalty under this Act, a person is deemed to be a collector if they were a collector at the time of the contravention, regardless of whether or not they are still a collector when the payment of the administrative penalty is ordered or due.

Failure to pay administrative penalty

(7) If a consumer or collector fails to pay an administrative penalty as ordered under paragraph (1)(b) or into court under subsection 17(4) within 30 days of the serving of the notice under subsection (8),

- (a) in the case of a registered collector, the Director may suspend the registration until the administrative penalty is paid;
- (b) the order may be filed with the Nunavut Court of Justice and enforced as if it were an order of the court; and
- (c) the administrative penalty becomes an unpaid tax debt due to the Government of Nunavut.

Notice

(8) When imposing a sanction under this section, the Director must serve a notice on the consumer or collector which provides the following information:

- (a) the sanction;
- (b) the reason for the sanction;
- (c) the consequences to the consumer or collector of the sanction;
- (d) in the case of an administrative penalty, a copy of the order indicating
 - (i) the amount of the penalty and the date before which it must be paid,
 - (ii) if applicable, notice that the registration may be suspended for non-payment of the administrative penalty, and
 - (iii) collection action may be taken to collect the administrative penalty;
- (e) in the case of a suspension, the period or periods of the suspension;
- (f) in the case of a cancellation, the effective date of the cancellation;

- (g) except in the case of a warning, information on how to appeal to the Nunavut Court of Justice.

Sanction does not preclude conviction

(9) A consumer, collector or former collector against whom a sanction has been imposed under this section may also be charged with and convicted of an offence under this Act or another enactment for the same matter.

Exemption – issuers of liquor import permits

(10) This section and sections 15 to 17 do not apply to the Minister responsible for Part I of the *Liquor Act*.

Administrative penalty – failure to collect tax

15. (1) A collector who fails to collect a tax when required to do so under this Act may be ordered to pay an administrative penalty under section 14 in the higher of the following amounts:

- (a) the amount of the tax that should have been collected in accordance with this Act;
- (b) in the case of an intentional failure or a willfully or grossly negligent failure,
 - (i) in the case of a retail seller, the retail seller's sale price for the liquor for which the tax should have been collected; or
 - (ii) in the case of an issuer of liquor import permits, the sale price that was attributed in accordance with the regulations.

Administrative penalty – failure to remit

(2) A collector who fails to remit a tax they have collected when required to do so under this Act may be ordered to pay an administrative penalty under section 14 in the higher of the following amounts:

- (a) 10% of the amount of the tax that should have been remitted;
- (b) in the case of an intentional failure or a willfully or grossly negligent failure, the amount of the tax.

Presumption – collector

(3) For the purposes of subsections (1) and (2), if a collector is not a registered collector, their registration is suspended at the time of the failure, or they are subject to an order under section 24, their failure under those subsections is, in the absence of evidence to the contrary, presumed to be intentional, or willfully or grossly negligent.

Administrative penalty – failure to pay tax

(4) In the following circumstances, a consumer who fails to pay a tax when required to do so under subsection 2(1) or (2) may be ordered to pay an administrative penalty under section 14 in the highest of the following amounts:

- (a) if the consumer knew, or ought to reasonably have known, that the collector was not collecting the tax, the amount of the tax;
- (b) if the consumer knew, or ought to reasonably have known, that the collector was not a registered collector, the amount of the tax;

- (c) if the consumer knew, or ought to reasonably have known, that the collector was neither a registered collector nor collecting the tax,
 - (i) in the case of a retail seller, the retail seller's sale price for the liquor for which the tax should have been paid, or
 - (ii) in the case of an issuer of liquor import permits, the sale price that is attributable in accordance with the regulations.

Presumption – consumer

- (5) For the purposes of subsection (4),
 - (a) if a consumer has previously received a warning under section 14 indicating that a collector is not a registered collector, the consumer is, in the absence of evidence to the contrary, presumed to know that the collector is not a registered collector; and
 - (b) if a consumer has previously received a warning under section 14 indicating that a collector is not a collecting taxes under this Act, the consumer is, in the absence of evidence to the contrary, presumed to know that the collector is not collecting taxes under this Act.

Exemption – consumer who pays tax

- (6) Subsection (4) does not apply to a consumer who, within 15 days after the day on which the tax should have been paid,
 - (a) reports the non-payment of the tax to the Director in writing; and
 - (b) pays the tax to the Director.

Administrative penalty – failure to pay tax on unauthorized import

- (7) A consumer who fails to pay a tax when required to do so under subsection 2(3) may be ordered to pay an administrative penalty under section 14 in the higher of the following amounts:
 - (a) the amount of the tax;
 - (b) in the case of an intentional failure or a willfully or grossly negligent failure, the purchase price for the liquor for which the tax was not paid.

Payment of administrative penalty does not reduce debt

- (8) For greater certainty, the payment of an administrative penalty ordered under section 14 does not reduce or in any way affect unpaid tax debts or any other amounts which must be paid or remitted under this Act.

Suspensions

- 16.** (1) The Director may suspend a registration under section 14, either continuously or intermittently, for a period or periods not exceeding three months, if
- (a) the registered collector has been ordered to pay an administrative penalty for a contravention of the same provision of this Act or the regulations in the five years preceding the contravention; or
 - (b) in the case of a contravention for which no administrative penalty has been prescribed in this Act or the regulations, the contravention, whether alone

or in combination with previous contraventions, is so serious that it is appropriate to suspend the registration.

Cancellations

(2) The Director may cancel a registration under section 14 if a registered collector's registration has, in the five years preceding the contravention, been suspended for a contravention of the same provision of this Act or the regulations for a period or periods totaling at least one month.

Commission exempt

(3) This section does not apply to the Commission.

Appeal to Court

17. (1) Subject to subsections (2) and (4), a consumer or collector on whom an administrative penalty, suspension or cancellation has been imposed under section 14 may, within 30 days from the date on which the notice of the sanction is served on them under subsection 14(8), appeal the sanction to the Nunavut Court of Justice.

Failure to pay administrative penalty

(2) A suspension under subsection 14(7) may not be appealed under this section.

Party

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

Administrative penalty – payment into court

(4) An appeal under subsection (1) with respect to an administrative penalty may only be made after

- (a) the appellant pays the amount of the administrative penalty into court pending appeal; or
- (b) in the case of an appellant who is an individual,
 - (i) a judge of the Nunavut Court of Justice determines that the appellant is not reasonably able to pay the full amount of the administrative penalty into court pending appeal, and
 - (ii) the appellant pays into court a portion of the administrative penalty that the judge of the Nunavut Court of Justice determines the appellant is able to pay into court pending appeal.

Administrative penalty – return or deposit of monies

(5) The amount paid into court under subsection (4) must,

- (a) if the appeal is granted in full, be returned to the appellant;
- (b) if the administrative penalty is reduced on appeal, be deposited in the Consolidated Revenue Fund in the amount of the reduced administrative penalty and be returned to the appellant in the remaining amount, if any; or
- (c) if the appeal is not granted, be deposited in the Consolidated Revenue Fund.

Administrative penalty – question on appeal

(6) In an appeal with respect to an administrative penalty, the questions on appeal are limited to

- (a) jurisdiction;
- (b) whether the registered collector or their employee or agent committed the act or omission that constitutes the contravention for which the administrative penalty was imposed; and
- (c) in the case of an administrative penalty under section 15, the quantum of the administrative penalty was miscalculated.

Administrative penalty – decision

(7) In an appeal under this section with respect to an administrative penalty,

- (a) the standard of review is reasonableness;
- (b) a finding of fact or the discharge of a presumption is to be made on a balance of probabilities;
- (c) except for an administrative penalty referred to in paragraphs 15(1)(b), 15(2)(b) or 15(7)(b) or subsection 15(4), no proof of intention, negligence or other mental element is required for a finding that a consumer or collector contravened this Act or the regulations; and
- (d) except for an administrative penalty referred to in paragraphs 15(1)(b), 15(2)(b) or 15(7)(b) or subsection 15(4), no defence of due diligence or other defence based on a mental element may be admitted or used to rebut a finding that a consumer or collector contravened this Act or the regulations.

Administrative penalty – lack of mental element

(8) If, in an appeal of an administrative penalty referred to in paragraph 15(1)(b), 15(2)(b) or 15(7)(b), the Nunavut Court of Justice finds that the administrative penalty is not payable due solely to the lack of a requisite mental element or due to a defence based on a mental element, the Court must impose an administrative penalty in the amounts referred to in paragraph 15(1)(a), 15(2)(a) or 15(7)(a) respectively.

Suspension or cancellation – stay

(9) An appeal of a suspension or cancellation of a registration stays the suspension or cancellation unless the Nunavut Court of Justice determines otherwise.

Suspension or cancellation – decision

(10) In an appeal under this section respecting a suspension or cancellation of a registration,

- (a) if the Nunavut Court of Justice considers the suspension or cancellation to be reasonable, confirm it; or
- (b) if the Nunavut Court of Justice considers the suspension or cancellation to be unreasonable,
 - (i) reverse the suspension or cancellation,

- (ii) in the case of a suspension, vary its length, or
- (iii) impose a different sanction under subsection 14(1).

Costs

(11) The costs of an appeal under this section are at the discretion of the Nunavut Court of Justice.

Assessment of unpaid tax debt

Notice of assessment

18. (1) Before undertaking any collection action with respect to unpaid tax debt, the Director must serve a notice assessment on the person who is liable for the unpaid tax debt indicating

- (a) the amount of unpaid tax debt;
- (b) how the amount of unpaid tax debt was determined;
- (c) that the Director intends to enforce payment;
- (d) the day on which the unpaid tax debt must be paid in order to avoid collection action, which must be no less than 30 days after the date of service of the notice of assessment; and
- (e) how to appeal the amount of unpaid tax debt to the Nunavut Court of Justice.

No need to specify powers

(2) A notice of assessment under subsection (1) need not indicate which collection action the Director intends to undertake.

No collection within notice period

(3) The Director must not undertake collection action under section 21, 22 or 25 with respect to unpaid tax debt

- (a) until the day referred to in paragraph (1)(d); or
- (b) when prohibited from doing so under paragraph 19(4)(c).

No order or seizure within notice or appeal period

(4) Unless authorized by the Nunavut Court of Justice during the course of an appeal under section 19, the Director must not undertake collection action under section 23 or 24 with respect to unpaid tax debt until the later of

- (a) the day referred to in paragraph (1)(d); or
- (b) in the case of an appeal, the day on which
 - (i) the time for appealing the latest judgment on appeal has elapsed and no further appeal has been made, or
 - (ii) the appeal is discontinued.

Partial appeal

(5) Despite subsection (4), if an appeal under section 19 relates to only part of unpaid tax debt, the Director may undertake collection action with respect to the uncontested part of the unpaid tax debt as of the day referred to in paragraph (1)(d).

Appeal to Nunavut Court of Justice

19. (1) A person on whom a notice of assessment under section 18 has been served may, within 30 days after the date on which the notice of assessment is served, appeal the assessment to the Nunavut Court of Justice unless the notice of assessment relates to an administrative penalty which was or could have been appealed under section 17.

Party

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

Hearing

(3) The Nunavut Court of Justice must hear the appeal and the evidence adduced before it by the appellant and by the Director in a summary manner, and must decide the manner of the appeal.

Interim measures

(4) In the conduct of an appeal under this section, the Nunavut Court of Justice may make any interim decision it determines advisable for the due enforcement of this Act, including

- (a) ordering some or all of the contested unpaid tax debt to be paid into court by the appellant pending the appeal;
- (b) authorizing the Director to undertake collection action under sections 23 or 24 with respect to the unpaid tax debt, subject to any conditions included in the interim decision; or
- (c) prohibiting or restricting the Director from taking collection action with respect to the unpaid tax debt.

Return or deposit of monies

(5) An amount paid into court under paragraph (4)(a) must,

- (a) if the appeal is granted in full, be returned to the appellant;
- (b) if the unpaid tax debt is reduced on appeal, be deposited in the Consolidated Revenue Fund in the amount of the reduced unpaid tax debt and be returned to the appellant in the remaining amount, if any; or
- (c) if the appeal is not granted, be deposited in the Consolidated Revenue Fund.

Costs

(6) The costs of an appeal under this section are at in the discretion of the Nunavut Court of Justice.

Collection of unpaid tax debt

Instalment payments

20. (1) The Director may enter into an agreement with a person who is liable for unpaid tax debt for the payment, on an instalment basis, of the unpaid tax debt and any reasonable expenses incurred by the Director as a result of the agreement.

Conditions

(2) The Director may include any reasonable conditions in an agreement under subsection (1).

Collection

(3) While an agreement under subsection (1) is in force, any instalment payment that has not yet become due in accordance with the agreement is not subject to collection action.

Termination of agreement

(4) The Director may terminate an agreement under subsection (1) by serving a notice on the person with whom the agreement was made if

- (a) the person fails to make an instalment payment in accordance with the agreement; or
- (b) the person fails to comply with any of the conditions of the agreement.

Effect of termination

(5) For greater certainty, upon termination of an agreement under subsection (1), any unpaid amounts under the agreement revert to being subject to collection action.

Certificate

21. (1) Subject to section 18, the Director may file a certificate with the Clerk of the Nunavut Court of Justice with respect to an unpaid tax debt that states

- (a) the amount due;
- (b) the amount unpaid, including any interest and penalties as at the date of filing; and
- (c) the name of the person by whom it is payable and, if applicable, any other information required to identify the person.

Effect of filing

(2) A certificate filed under this section has the same force and effect, and all proceedings and other enforcement actions may be taken on it, as if it were a judgment of the Nunavut Court of Justice against the person named in it for the recovery of a debt in the amount unpaid that is stated in the certificate.

Third-party demand

22. (1) Subject to section 18, if a third party is or is about to become indebted to a person liable for unpaid tax debt, the Director may serve a notice on the third party demanding that, on account of the unpaid tax debt, the money otherwise payable to the person liable for unpaid tax debt be, in whole or in part, paid to the Government of Nunavut.

Discharge of liability of third party

(2) A receipt from the Government of Nunavut of monies paid to satisfy a demand under subsection (1) constitutes a discharge of the liability of the third party to the person liable for unpaid tax debt, to the extent of the amount referred to in the receipt.

Discharge of liability of tax debtor

(3) An unpaid tax debt is reduced by the amount of monies paid to the Government of Nunavut by a third party to satisfy a demand under subsection (1) related to that unpaid tax debt.

Liability of third party

(4) If, after being served a notice under subsection (1), the third party discharges a liability to the person liable for unpaid tax debt indicated in the notice,

- (a) the value of the discharged liability, up to the amount of the unpaid tax debt, becomes an unpaid tax debt payable by the third party;
- (b) the debt is adjusted over time as necessary so that it is never more than the unpaid tax debt on which it is based;
- (c) subject to the *Bankruptcy and Insolvency Act* (Canada) and any other Act of Canada, the debt has priority over all other claims of other person; and
- (d) the debt bears interest in accordance with the *Financial Administration Act*.

Seizure for purposes of forfeiture

23. (1) Subject to section 18, if a retail seller, other than the Commission, is liable for an unpaid tax debt, the Director may send a tax inspector to the premises of the retail seller to seize liquor for the purpose of forfeiture under this section.

Powers of tax inspector

(2) A tax inspector referred to in subsection (1) may seize any liquor found at the premises and has for that purpose the same powers and duties as they would have when carrying out an inspection under section 28.

Seizure in place

(3) If a tax inspector is unable to safely store liquor seized under this Act, the tax inspector may store the seized liquor where it was found by

- (a) sealing the containers containing liquor in accordance with the regulations; and
- (b) posting, at conspicuous places in the place where the liquor is stored, a notice indicating that the liquor is seized and containing the information prescribed by regulation.

Seizure in place – prohibitions

- (4) A person must not, without the express, written consent of a tax inspector,
- (a) move, sell or otherwise deal with liquor sealed in accordance with paragraph (3)(a); or
 - (b) move, deface or otherwise tamper with a notice posted in accordance with paragraph (3)(b).

Forfeiting seized liquor

(5) If liquor that is in a sellable condition has been seized under this section or section 31 from a retail seller or former retail seller who is liable for an unpaid tax debt, the Director

- (a) may declare an amount of the liquor whose value is equivalent to or less than the amount of the unpaid tax debt to be forfeit to the Government of Nunavut;
- (b) must ensure that any liquor forfeit under paragraph (a) is delivered to the Commission; and
- (c) must ensure that liquor seized under this section that is not forfeit is dealt with in the same manner as any other liquor seized under this Act.

Commission's obligation

(6) When forfeit liquor is delivered to the Commission under this section and the Commission determines it is in sellable condition, the Commission

- (a) must pay an amount equivalent to the value of the liquor from the Liquor Revolving Fund to the Consolidated Revenue Fund; and
- (b) may sell the liquor in the same manner as any other liquor sold by the Commission.

Not in sellable condition

(7) When forfeit liquor is delivered to the Commission under this section and the Commission determines it is not in sellable condition, the liquor is deemed to not be forfeit and must be dealt with in the same manner as any other liquor seized under this Act and, for greater certainty, may be returned to the place where it was seized and sealed in accordance with subsection (3).

Determining value

(8) For the purposes of this section, the value of liquor is deemed to be

- (a) if the liquor was purchased from the Commission and is subject to a right of return for a refund, the refund amount, less taxes and any applicable restocking fee; or
- (b) otherwise, the price at which the Commission would sell the liquor at retail, less taxes and the Commission's regular retail mark-up for the liquor.

Order to cease operations

24. (1) Subject to section 18, the Director may order a retail seller, other than the Commission, to cease selling, purchasing, importing or producing liquor, or offering to do so, if the retail dealer is

- (a) is liable for unpaid tax debt;
- (b) has had their registration suspended; or
- (c) is not a registered retail seller.

Order – duration

(2) An order under subsection (1) must provide that it is in force until the reasons for its issuance have been remedied.

Notification

- (3) The Director must serve a notice of an order under this section on
- (a) the retail seller;
 - (b) the Commission;
 - (c) every commercial producer of liquor in Nunavut; and
 - (d) every issuer of liquor import permits.

Prohibition – retail seller

(4) A retail seller who is subject to an order under this section must comply with the order.

Prohibition – others

(5) A person must not knowingly sell liquor or issue a liquor import permit to a retail seller who is subject to an order under this section.

Other methods of enforcement

25. In addition to the provisions of this Act but subject to section 18, the Government of Nunavut may enforce the payment of an unpaid tax debt in the same manner as any other debt due to the Government of Nunavut, including by

- (a) imposing a sanction under section 14;
- (b) action in the Nunavut Court of Justice or another court of competent jurisdiction; or
- (c) deduction or set-off under the *Financial Administration Act*.

Exercise of multiple powers

26. For greater certainty, enforcing the payment of an unpaid tax debt in any lawful manner does not preclude enforcing the payment of the unpaid tax debt in any other lawful manner.

Liability for collection action

27. If any collection action results in an overpayment of tax, penalties or interest, including when the unpaid tax debt on which the collection action was based is later found to not be valid,

- (a) the Director, tax inspector, the Government of Nunavut and any other person involved in the action are not liable for any loss or damage resulting from the collection action; and
- (b) the Government of Nunavut is only liable to return money in the amount of the overpayment.

Inspections

Right to enter and inspect

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

- (a) the premises of a collector;
- (b) any place where the tax inspector has reason to believe that liquor, records or data belonging to a collector are held or stored.

Show identification

(2) The tax inspector must, 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 tax inspector must 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 tax 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) take samples of any substance, thing or liquid;
 - (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 or audit, in whole or in part;
 - (f) seize any thing in accordance with section 31 that may provide evidence for the purpose of ensuring compliance; and
 - (g) seize any liquor authorized to be seized under section 23.

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, must
- (a) give the tax inspector all reasonable assistance to enable him or her to carry out his or her functions; and
 - (b) provide the tax inspector with any information in relation to the administration of this Act that he or she may reasonably require.

Delegation

- (6) A tax inspector may, on consent, delegate a specific and time limited inspection power to a by-law officer or peace officer if the tax inspector believes that
- (a) the inspection must be performed without delay; and
 - (b) they are unable to perform the inspection due to his or her illness, absence or other inability.

Searches

Searches

29. If a tax inspector 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 tax 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

- 30.** (1) In carrying out an inspection or search under this Act, a tax inspector may
- (a) use or cause to be used any computer system and examine any data contained in or available to the computer system; and
 - (b) in accordance with section 31,
 - (i) reproduce or cause to be reproduced any record or data,
 - (ii) print or export any record or data for examination or copying, and
 - (iii) use or cause to be used any copying equipment at the place to make copies of the record or data.

Obstruction

- (2) While a tax inspector is exercising powers or carrying out duties or functions under this Act, a person must not
- (a) knowingly make any false or misleading statement, either orally or in writing, to the tax inspector; or
 - (b) otherwise obstruct or hinder the tax inspector, other than by refusing entry to a place where the tax inspector 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 tax inspector 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 a tax inspector under this section, a person must 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

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

Seizures during searches

(2) If, during the course of a search, a tax inspector 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.

Seizure for forfeiture

(3) For greater certainty, nothing in this section limits the authority of a tax inspector to seize liquor under section 23.

Disposition of Things Seized

Receipt for things seized

32. (1) If a tax inspector seizes a thing under this Act, other than a sample taken pursuant to paragraph 28(4)(c), the tax inspector must issue a receipt describing the thing seized to the person from whom it was seized.

Examination of thing seized

(2) A tax inspector 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 a tax inspector without making an application for disposition under section 33, if he or she has reasonable grounds to believe that there is nothing of value to be returned.

Right to reclaim thing seized

(4) If a thing seized under this Act is not forfeit under section 23 or 47 and is no longer needed as evidence and has not been destroyed or otherwise disposed of in accordance with subsection (3) or as a result of being examined,

- (a) the tax 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 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 tax inspector who seized it may destroy or otherwise dispose of it.

Custody and disposition of things seized

(6) Subject to subsections (2) to (5), a tax inspector must ensure that proper custody of a thing seized under this Act is maintained pending disposition under section 33.

Application for disposition

33. (1) A tax inspector must, 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 32.

Affidavit

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

Disposition

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

- (a) order the thing delivered to the owner or person entitled to it;
- (b) order the thing to be held as evidence in a proceeding relating to the thing;
- (c) order the thing to be destroyed or otherwise disposed of safely under the direction of a tax inspector;
- (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.

Exception

(4) Subject to subsection 23(7), this section does not apply to a seizure under section 23.

Limitation on powers

Information, records or data

34. The powers under sections 28 to 31 and subsections 32(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, audit, search or seizure; or
- (b) authorized by a warrant.

Warrants

Inspection warrant

35. (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 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

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

Expiration and extension

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

Use of force

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

Call for assistance

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

Providing assistance

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

Identification

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

Telewarrants

Telewarrants

37. (1) Where a tax 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 tax 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 officer 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 tax inspector to whom it was originally directed, to any other tax inspector, 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

38. (1) A tax inspector appointed under this Act may request the assistance of the following persons in exercising the tax inspector's powers or duties under this Act or the regulations 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 tax inspector requesting assistance under subsection (1) apply to and may be exercised by the persons referred to in paragraphs (1)(a) and (b) while acting under the instructions of the person requesting assistance.

Oaths and affirmations

Power to administer oaths and affirmations

39. A tax 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.

Administration

Appointment of Director

40. (1) The Minister must appoint a Director of Liquor Taxation to administer and enforce this Act.

Appointment of tax inspectors

(2) The Director must appoint tax inspectors for the purposes of this Act.

Protection from liability

41. The Director, a tax inspector or a person giving assistance under this Act is not liable for any loss or damage suffered by reason of anything done or not done by them in good faith in the exercise of their powers, in the performance of their functions or duties or in giving assistance under this Act.

Use and disclosure of information

42. Any information collected in the course of administering or enforcing this Act may be disclosed to and used by a public body, as defined in the *Access to Information and Protection of Privacy Act*, for the due administration and enforcement of

- (a) this Act;
- (b) the *Liquor Act*; and
- (c) any other Act respecting taxation.

Offences and punishment

False statements

43. (1) Every person who makes a false statement in any form or return filed under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$2,500 and not exceeding \$5,000 or to imprisonment for a term not exceeding six months or to both a fine and imprisonment.

Failure to collect tax

(2) Every collector who fails to collect the tax imposed by this Act is liable on summary conviction

- (a) to a fine equal to the amount of the tax, including any interest, penalties and expenses that should have been collected, as determined under subsection (5); and
- (b) to a fine of not less than \$500 and not exceeding \$5,000, to imprisonment for a term not exceeding three months or to both a fine and imprisonment.

Other offences

(3) Except as otherwise provided for in subsections (1) and (2), every person who contravenes any of the following provision of this Act is guilty of an offence and is liable on summary conviction to the punishment set out in subsection (4):

- (a) sections 2 to 4;
- (b) subsection 5(1) or (2);
- (c) subsection 6(1);
- (d) subsection 7(3) or (4);
- (e) subsection 8(1), (5) or (8);
- (f) subsection 9(2);
- (g) section 10;
- (h) section 11 or 12;
- (i) subsection 23(4);
- (j) subsection 24(4) or (5);
- (k) subsection 28(5);
- (l) subsection 30(2) or (4).

Punishment for other offences

(4) The punishment for the purposes of subsection (3) is

- (a) for a first offence, to a fine of not less than \$1,000 and not exceeding \$2,000, imprisonment for a term not exceeding 30 days, or to both a fine and imprisonment; or
- (b) for each subsequent offence, to a fine of not less than \$2,000 and not exceeding \$10,000, imprisonment for a term not exceeding six months, or to both a fine and imprisonment.

Amount of tax

(5) The Director must determine the amount of the tax referred to in paragraph (2)(a) from the information that is available to the Director, and must issue a certificate as to the

amount, but, except where the Director considers there has been deliberate evasion of this Act, the Director must not consider a period of greater than three years in determining the amount of tax.

Certificate

(6) In a prosecution under subsection (2), a certificate signed or purported to be signed by the Director stating the amount of tax that should have been collected is, without proof of appointment or signature, and in the absence of evidence to the contrary, proof of the amount of the tax that should have been collected.

Remedy for recovery

(7) Nothing contained in this section or the enforcement of any punishment under this section suspends or affects any remedy for the recovery of any tax or administrative penalty payable under this Act.

Continuing offence

44. (1) A person who continues an offence under this Act on more than one day is liable to be convicted for a separate offence for each day on which the offence is continued.

Repeated offence

(2) A person who commits an offence more than once, whether on the same day or on separate days, is liable to be convicted for a separate offence for each occurrence of the offence.

Liability of corporate officers

45. 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.

Employees or agents

46. In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by any employee or agent of the accused person, even if the employee or agent is not identified or is not prosecuted for the offence.

Seized liquor

47. If liquor belonging to an accused person has been seized in relation to an offence under this Act and is not otherwise subject to forfeiture under this Act,

- (a) if the accused person is found guilty of the offence, the liquor is forfeit to the Government of Nunavut; or
- (b) if the accused person is acquitted of the offence, the liquor is returned to the person.

Regulations

Regulations

48. (1) The Minister may make regulations for carrying the purposes and provisions of this Act into effect, including regulations

- (a) respecting the rate of tax payable on liquor, which may be between 5% and 25% of
 - (i) the sale price, or
 - (ii) an estimated sale price in cases where the sale price is unknown;
- (b) respecting the elements of the price that are included in or excluded from the sale price for the purposes of this Act and the regulations;
- (c) respecting the procedures for the calculation, collection, payment, pre-payment of, or other modalities related to, taxes under this Act by special occasion permit holders, which may be different from the procedures provided for under this Act and the regulations;
- (d) respecting the circumstances in which purchases of liquor on an aircraft or ship are not subject to taxation under this Act;
- (e) respecting refunds under subsection 2(5);
- (f) respecting the remitting of taxes collected under this Act, including timing of remittances and information that is to accompany remittances;
- (g) respecting the overpayment or overcollection of taxes, including refunds, deductions and off-setting;
- (h) respecting security to be provided under section 7;
- (i) respecting application to be registered under section 8;
- (j) prescribing offences for the purposes of paragraph 8(3)(c);
- (k) respecting notification under subsection 9(2);
- (l) respecting records to be maintained by collectors;
- (m) respecting reports to be submitted by collectors;
- (n) respecting administrative penalties imposed under paragraph 14(1)(b);
- (o) respecting seizures in place under subsection 23(3);
- (p) respecting notifications under paragraph 32(4)(a);
- (q) respecting the manner of notifying the Director under this Act;
- (r) respecting the service of notices under this Act;
- (s) respecting forms under this Act, including
 - (i) their content, and
 - (ii) if not otherwise provided for under this Act, who may approve them;
- (t) prescribing anything that this Act allows or requires to be prescribed;
- (u) respecting any other matter or thing necessary or advisable for carrying out the purposes and provisions of this Act; and
- (v) for any purpose for which regulations are authorized to be made.

Administrative penalties

- (2) Administrative penalties under the regulations may
 - (a) not exceed \$2,000 per contravention;
 - (b) be different for different contraventions;
 - (c) be different in the case of repeat contraventions; and
 - (d) be daily in the case of continuing contraventions.

Legislation Act

- (3) Parts 3 to 5 of the *Legislation Act* do not apply to an order made under this Act.

Related amendments

Liquor Act

49. (1) This section amends the *Liquor Act*.

(2) The following is added after subsection 15(1):

Liquor tax

(1.1) An application under paragraph (1)(a) must also be accompanied by the tax, if any, payable under subsection 2(2) of the *Liquor Tax Act*.

(3) Subsection 58(1) is amended by

(a) adding ", other than taxes," after "sale of liquor"; and

(b) adding "and Cannabis" after "Liquor".

(4) Section 59 is amended by adding ", including the payment of any administrative penalties or fines under the *Liquor Tax Act*, " after "the purchase and sale of liquor and cannabis".

Coming into force

Coming into force

50. This Act comes into force on a day to be fixed by order of the Commissioner in Executive Council.