

Chapter 5

FUEL TAX ACT

(Assented to March 11, 2025)

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FUEL 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 registered as a collector under section 7; (*collecteur*)

"consumer" means a person who purchases or produces fuel in or imports fuel into Nunavut for the purpose of consumption, but a person is deemed to not be a consumer with respect to fuel that they produce, purchase or import for lawful resale; (*consommateur*)

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

"exporter" means a person who exports fuel from Nunavut, other than fuel in the fuel tank of a motor vehicle, aircraft, railway vehicle or vessel; (*exportateur*)

"fuel" means any combustible gas, liquid or solid used for producing heat or power; (*combustible*)

"fuel tank" means a tank or other container that is

- (a) originally provided by the manufacturer of a motor vehicle, aircraft, railway vehicle or vessel to carry the fuel required to propel it, or
- (b) carried in or on a motor vehicle and capable of being easily connected to its fuel system; (*réservoir*)

"motor vehicle" means a vehicle propelled or driven by power other than muscular power and includes a trailer, but does not include

- (a) an aircraft, a railway vehicle or a vessel, or
- (b) a vehicle drawn by an animal; (*véhicule automobile*)

"producer" means a person who produces fuel in Nunavut; (*producteur*)

"railway vehicle" means a vehicle that runs or is intended to run only on rails or tracks and includes all equipment attached directly to the same fuel line; (*véhicule ferroviaire*)

"registered" means registered or deemed to be registered under section 7; (*inscrit*)

"registration" means a registration under section 7; (*inscription*)

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"registration certificate" means a registration certificate issued under paragraph 7(3)(b); (*certificat d'inscription*)

"retail seller" means a person who sells fuel 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 to that debt; (*dette fiscale impayée*)

"vessel" means any conveyance navigated in or on water and includes a submersible, a submarine or a hovercraft; (*navire*)

"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*)

"wholesaler" means a person who purchases fuel from other collectors or imports fuel for the purpose of selling to retail sellers or other collectors. (*grossiste*)

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.

Dual role

- (3) If a person is both a retail seller and a collector,
- (a) the provisions of this Act respecting retail sellers apply when they are acting as a retail seller; and
 - (b) the provisions of this Act respecting collectors apply when they are acting as a collector.

Fuel Tax

Fuel tax – purchased fuel

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

Fuel tax – imported fuel

(2) Every consumer importing fuel into Nunavut must pay a tax at the rate established in the regulations within 30 days after the importation.

Fuel tax – collectors

(3) Every collector must, in accordance with the regulations, pay a tax at the rate established in the regulations for any fuel that they have produced or imported that they also consume.

Exemptions

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

- (a) purchase or importation by the consumer of fuel used or to be used
 - (i) for the purpose of heating premises,
 - (ii) for producing power that is distributed by Qulliq Energy Corporation,
 - (iii) by the Government of Nunavut,
 - (iv) by municipalities,
 - (v) by visiting forces as defined in the *Visiting Forces Act* (Canada),
 - (vi) for the North Warning System,
 - (vii) for lubricating purposes,
 - (viii) as cleaning fluids or solvents;
- (b) importation of fuel in the fuel tank of a motor vehicle, aircraft, railway vehicle or vessel;
- (c) importation of fuel, other than fuel in a fuel tank, not exceeding
 - (i) 50 litres in the case of fuel in or on a motor vehicle,
 - (ii) 150 litres in the case of fuel in or on a vessel,
 - (iii) 250 litres in the case of fuel in or on an aircraft, or
 - (iv) 4,500 litres in the case of fuel in or on a railway vehicle;
- (d) purchase or importation of fuel for which no tax rate is established in the regulations;
- (e) other activities 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 fuel is delivered outside Nunavut and the consumer does not take possession of the fuel 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 fuel is imported.

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 or producer 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 or retail seller

(3) When a collector or retail seller fails to collect the tax from a consumer, the collector or retail seller 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 or retail seller under this Act for failure to collect the tax.

Tax Collection

Collection of tax – retail seller

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

Invoicing

(2) A retail seller must provide an invoice or account with respect to any delivery of fuel by them that includes the information prescribed by regulation.

Collection of tax – collector

- (3) A collector must, as an agent of the Government of Nunavut,
- (a) collect an advance on taxes payable under subsection 2(1) in respect of fuel sold by the collector to a retail seller that is not a collector;
 - (b) collect from itself taxes payable under subsection 2(2) in respect of fuel it imports that it intends to use;
 - (c) collect from itself taxes payable under subsection 2(1) in respect of other fuel used by the collector.

Trust money – collector

- 5.** (1) A collector who collects a tax or an advance on taxes 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.

Trust money – retail seller

- (2) A retail seller who collects a tax payable under this Act that has not already been remitted to a collector in the form of an advance collected under paragraph 4(3)(a)
- (a) is deemed to hold the tax in trust for the Government of Nunavut; and
 - (b) must remit the tax to the Government of Nunavut in accordance with the regulations.

Debt

(3) If a retail seller who has collected a tax payable under this Act or a collector who has collected an advance on tax under this Act fails to remit it to the Government of Nunavut in accordance with the regulations, the amount of the tax or the advance

- (a) becomes an unpaid tax debt due to the Government of Nunavut;
- (b) is a lien on all fuel owned by the retail seller 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 persons; and
- (d) bears interest in accordance with the *Financial Administration Act*.

Presumption

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

Direct payments

(5) The Director must deposit any taxes and advances of taxes collected under this Act in the Consolidated Revenue Fund.

Excess advances

6. (1) A retail seller may apply to the Director for a refund of any excess payment of taxes in accordance with the regulations with respect to advances that are

- (a) remitted by a retail seller on fuel that
 - (i) is not subject to taxation under this Act, or
 - (ii) has been stolen, spilled or otherwise rendered unsellable; or
- (b) otherwise in excess of what is required under this Act.

Refund to consumer

(2) A consumer may apply to the Director for a refund of any excess payment of taxes in accordance with the regulations if the consumer has

- (a) paid taxes for fuel that is not subject to taxation under this Act;
- (b) paid taxes for fuel under this Act for a use that is different from the actual use of the fuel; or
- (c) otherwise paid taxes in excess of what is required under this Act.

Registration of collectors and exporters

Application for registration – collectors

7. (1) The following persons must register as collectors by submitting an application to the Director in accordance with the regulations:

- (a) a person who imports fuel into Nunavut, except in the case of importation only
 - (i) by the consumer of the fuel, or
 - (ii) in circumstances that are exempt from taxation under subsections 2(4)(b) to (e);
- (b) wholesalers;
- (c) producers.

Application for registration – exporters

(2) An exporter must register by submitting an application to the Director in accordance with the regulations.

Registration

(3) The Director must

- (a) subject to subsection (4), register a person making an application under subsection (1) as a collector or under subsection (2) as an exporter; and
- (b) issue a registration certificate to every registered collector and every registered exporter.

Refusal to register

(4) The Director may refuse to register a person as a collector under paragraph (3)(a) if

- (a) the Director is satisfied that the person
 - (i) has been convicted of an offence under this Act or the regulations,
 - (ii) has otherwise contravened this Act or the regulations, or
 - (iii) has been convicted of an offence prescribed by regulation;
- (b) the Director determines, in accordance with the regulations, that the person's financial health is unsatisfactory; or
- (c) in the case of a corporation or other entity with legal personality that seeks registration, the Director has reason to believe that it exists primarily for the purpose of
 - (i) delaying the collection of tax under this Act, or
 - (ii) rendering more onerous or complex the accurate tracking of transactions or activities that are subject to taxation under this Act.

Registration certificate

(5) A collector and a registered exporter 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.

Government deemed to be registered

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

Validity of registration

8. (1) A registration under section 7 is voided by operation of law if

- (a) the collector or exporter
 - (i) in the case of an individual, dies, or
 - (ii) in the case of a corporation, is dissolved; or
- (b) the collector or exporter returns their registration certificate to the Director.

Notification

(2) A collector or exporter may cancel their registration by notifying the Director in accordance with the regulations and returning their registration certificate to the Director.

Cancellation for inactivity – collector

(3) The Director may, in accordance with the regulations, cancel a collector's registration if the collector has reported no fuel sales or production during a period of three years.

Cancellation – exporter

(4) The Director may, in accordance with the regulations, cancel an exporter's registration if the exporter has reported no fuel exports during a period of three years.

Property of government

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

Security

10. (1) For the purpose of securing remissions to be made by a collector or exporter, the Director may, in accordance with the regulations, require the collector or exporter 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 or exporter fails to provide security required under subsection (1), the Director may, seven days after serving a notice of default, suspend their registration until the security has been provided.

Records and Reports

Maintenance of records

11. (1) A collector, exporter, retail seller and any person who imports fuel into Nunavut must maintain records of fuel imports, fuel inventory, fuel sales, fuel consumption, tax collection and other activities under this Act in accordance with the regulations.

Exception

(2) This section does not apply to a person who only imports fuel in circumstances that are exempt from taxation under

- (a) subparagraphs 2(4)(a)(iii) to (vi); or
- (b) paragraphs 2(4)(b) to (e).

Reports by collectors and persons importing fuel into Nunavut

12. (1) A collector, exporter and any person who imports fuel into Nunavut must submit reports on fuel imports, fuel inventory, fuel sales, fuel consumption, 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.

Exception

(3) This section does not apply to a person who only imports fuel in circumstances that are exempt from taxation under

- (a) subparagraphs 2(4)(a)(iii) to (vi); or
- (b) paragraphs 2(4)(b) to (e).

Determination in case of failure

13. If a collector, exporter or a person who imports fuel into Nunavut fails to maintain records under section 11 or submit reports under section 12, or maintains records or submits 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 fuel sold, exported or imported.

Civil sanctions

Contravention

14. (1) Subject to subsections (2) and (5), if the Director has reasonable grounds to believe that a person has contravened this Act or the regulations, the Director may

- (a) issue a warning to them;
- (b) order them to pay an administrative penalty in accordance with section 15 or, in the case of a collector, in accordance with the regulations; or
- (c) in the case of a collector, 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 person 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 person 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 person is deemed to be a contravention by the person.

Non-application to Government of Nunavut

(4) Subsection (3) does not apply with respect to agents referred to in subsection 4(1) or 4(3).

Limits on warnings

- (5) The Director may not issue a warning under paragraph (1)(a) to a person 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 person within one year before the day the contravention occurred.

Multiple administrative penalties

- (6) 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

(7) 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

(8) If a person 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 (9),

- (a) in the case of an exporter or collector, the Director may suspend their 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

(9) When imposing a sanction under this section, the Director must serve a notice on the person being sanctioned which provides the following information:

- (a) the sanction;
- (b) the reason for the sanction;
- (c) the consequences to the person 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

(10) A person 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 – Government of Nunavut

(11) This section and sections 15 to 17 do not apply to contraventions by the Government of Nunavut.

Administrative penalty – failure to collect tax

15. (1) A retail seller, a collector, or a person required to be registered as collector who fails to collect a tax or an advance on taxes when required to do so under this Act may be ordered to pay an administrative penalty under section 14 equal to the amount of the tax or advance on taxes that should have been collected in accordance with this Act.

Administrative penalty – failure to remit

(2) A retail seller, a collector, or a person required to be registered as collector who fails to remit a tax or advance on taxes 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 or advance on taxes 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 or advance on taxes.

Presumption – collector

(3) A person's failure to remit under subsection (2) is, in the absence of evidence to the contrary, presumed to be intentional, or willfully or grossly negligent if, at the time of the failure to remit,

- (a) they are required to be registered as a collector under subsection 7(1) but are not so registered;
- (b) their registration is suspended; or
- (c) they are subject to an order under section 24.

Administrative penalty – failure to maintain records

(4) An exporter, collector or retail seller who fails to maintain records required under this Act may be ordered to pay an administrative penalty of \$500 under section 14.

Administrative penalty – failure to submit records or reports

(5) An exporter or collector who fails to submit reports when required to do so under this Act may be ordered to pay an administrative penalty of \$500 under section 14.

Administrative penalty – failure to pay tax

(6) 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 equal to the amount of the tax under section 14.

Exemption – consumer who pays tax

(7) Subsection (6) 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.

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.

Remission

(9) Despite the *Financial Administration Act*, the Director may remit an administrative penalty pursuant to the regulations.

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 exporter or 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 an exporter's or 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.

Appeal to Court

17. (1) Subject to subsections (2) and (4), a person 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(9), appeal the sanction to the Nunavut Court of Justice.

Failure to pay administrative penalty

(2) A suspension under subsection 14(8) 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 person 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 paragraph 15(2)(b), 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 paragraph 15(2)(b), 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(2)(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 amount referred to in paragraph 15(2)(a).

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.

No judicial review

(12) A decision of the Director under sections 14 to 16 is not subject to judicial review by any court.

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 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 is liable for an unpaid tax debt, the Director may send a tax inspector to the premises of the retail seller to seize fuel for the purpose of forfeiture under this section.

Powers of tax inspector

(2) A tax inspector referred to in subsection (1) may seize any fuel 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 fuel seized under this Act, the tax inspector may store the seized fuel where it was found by

- (a) sealing the tanks or other containers containing fuel as well as any fuel pumps in accordance with the regulations; and
- (b) posting, at conspicuous places in the place where the fuel is stored, a notice indicating that the fuel is seized and containing the information prescribed by regulation.

Seizure of motor vehicle, aircraft, railway vehicle or vessel

(4) If fuel seized under this Act is stored in a motor vehicle, aircraft, railway vehicle or vessel, the tax inspector may seize the motor vehicle, aircraft, railway vehicle or vessel.

Seizure in place – motor vehicle, aircraft, railway vehicle or vessel

(5) If a tax inspector is unable to safely store a motor vehicle, aircraft, railway vehicle or vessel seized under this Act, the tax inspector may store it where it was found by posting, at conspicuous places on and in the motor vehicle, aircraft, railway vehicle or vessel a notice indicating that the motor vehicle, aircraft, railway vehicle or vessel is seized and containing the information prescribed by regulation.

Seizure in place – prohibitions

- (6) A person must not, without the express, written consent of a tax inspector,
- (a) move, sell or otherwise deal with fuel sealed in accordance with paragraph (3)(a);
 - (b) move, sell or otherwise deal with a motor vehicle, aircraft, railway vehicle or vessel seized in accordance with subsection (4) or stored in accordance with subsection (5); or
 - (b) move, deface or otherwise tamper with a notice posted in accordance with paragraph (3)(b) or subsection (5).

Forfeiting seized fuel

(7) If fuel 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 fuel 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 fuel forfeit under paragraph (a) is delivered to the Government of Nunavut; and
- (c) must ensure that fuel seized under this section that is not forfeit is dealt with in the same manner as any other fuel seized under this Act.

Testing

(8) Immediately prior to forfeiting fuel under subsection (7), the Director must ensure that the fuel to be forfeit is tested to ensure that it is in a sellable condition.

Government may sell forfeited fuel

(9) When forfeit fuel is delivered to the Government of Nunavut under this section, the Government of Nunavut may sell the fuel in the same manner as any other fuel sold by the Government of Nunavut.

Determining value

(10) For the purposes of this section, the value of fuel is determined in accordance with the regulations.

International Interests in Mobile Aircraft Equipment Act

(11) In case of an inconsistency between this section and the *International Interests in Mobile Aircraft Equipment Act*, that Act prevails to the extent of any inconsistency.

Order to cease operations

24. (1) Subject to section 18, the Director may order a person to cease selling, purchasing, importing or producing fuel, or offering to do so, if the person is

- (a) is liable for unpaid tax debt;
- (b) has had their registration as collector suspended; or
- (c) is not registered as a collector when required under this Act.

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 person subject to the order; and
- (b) every collector.

Prohibition

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

Prohibition – others

(5) A person must not knowingly sell fuel to a person who is subject to an order under this section.

Non-application

- (6) This section does not apply to
- (a) the Government of Nunavut; or
 - (b) a person who does not sell fuel.

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
 - (i) a retail seller,
 - (ii) a collector, or
 - (iii) a person that the tax inspector has reasonable grounds to believe is required be registered as a collector under this Act;
- (b) any place that the tax inspector has reason to believe is used to hold or store fuel, records or data belonging to
 - (i) a retail seller,
 - (ii) a collector, or
 - (iii) a person that the tax inspector has reasonable grounds to believe is required be registered as a collector under this Act.

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 tank or other 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 fuel 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 them to carry out their functions; and
 - (b) provide the tax inspector with any information in relation to the administration of this Act that they 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 their 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, or a person assisting a tax inspector under section 38, 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 person assisting the tax inspector; or
 - (b) otherwise obstruct or hinder the tax inspector, other than by refusing warrantless entry to a place where the tax inspector or person assisting 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 to stop or move the vehicle or other conveyance under subsection (3), 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 fuel 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 50 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) 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, in or on the place, 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 in 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) If 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 regulation 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 tax inspector.

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 Fuel 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.

Confidentiality

42. (1) Any information received by the Director or another person employed in the administration of this Act is confidential and must not be disclosed by them except in the performance of their duties or as provided in this section.

Exceptions

(2) Information referred to in subsection (1) may be disclosed

- (a) if the person to whom it relates consents in writing to the disclosure;

- (b) to the Financial Management Board established by the *Financial Administration Act* in respect of the forgiveness or write-off of a debt under the *Financial Administration Act*; and
- (c) in accordance with an agreement made under section 43 or 44.

Disclosure and use within government

(3) Information referred to in subsection (1) may be disclosed to and used by a public body, as defined in the *Access to Information and Protection of Privacy Act*,

- (a) for the purpose of administering or enforcing this Act or any other Act respecting taxation;
- (b) for the purpose of coordinating the administration and enforcement of this Act or any other Act respecting taxation; or
- (c) for the purpose of evaluating this Act or any other Act respecting taxation, including their amendment or the development of a new Act respecting taxation.

Limit with respect to evaluations

(4) Information that is disclosed or used under paragraph (3)(c) must be in the form of

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

Agreements

Information-sharing agreements

43. (1) The Minister may, on behalf of the Government of Nunavut, enter into agreements for the collection, use, disclosure and exchange of personal information with the following:

- (a) the Government of Canada or any of its departments, Ministers or agencies;
- (b) the government of a province or other territory or any of its departments, Ministers or agencies.

Limit

(2) An agreement may only be entered into under subsection (1) for the purposes of administering or enforcing of a law of Canada, a province or another territory that provides for the imposition of a tax.

Content of agreement

(3) An agreement entered into under subsection (1) must

- (a) specify only those purposes under subsection (2) which are necessary for the purposes of the agreement;
- (b) provide that information collected, used, disclosed or exchanged under the agreement may not be further used or disclosed for any purpose other than one specified in the agreement, unless applicable legislation requires such use or disclosure;

- (c) if the *Archives Act* or law of Canada, a province or another territory does not provide for the retention and destruction of information collected, used, disclosed or exchanged under the agreement, provide for retention and destruction schedules for the information;
- (d) provide that personal information collected, used, disclosed or exchanged under the agreement is confidential; and
- (e) establish mechanisms for maintaining the confidentiality and security of information collected, used, disclosed or exchanged under the agreement.

Taxation agreements

- 44.** (1) The Minister may, on behalf of the Government of Nunavut, enter into agreements with the Government of Canada or the government of a province or another territory
- (a) for the purpose of making the application and administration of this Act and any similar Act of a province or another territory more equitable; and
 - (b) respecting the payment or the relief from the payment of the tax under this Act or imposed under a similar Act of a province or another territory to
 - (i) avoid the duplicate imposition of any such tax, or
 - (ii) in the case of a person who consumes fuel at a location that is partly in Nunavut and partly in a province or another territory, simplify the calculation of taxes payable under this Act and a similar Act of the province or other territory, including by deeming how much of the fuel consumed at the location is taxable under this Act.

Tax relief

- (2) The Director must relieve a person to the extent provided for in the agreement from the tax in respect of the use or consumption of fuel that would otherwise be payable under this Act or that part of the tax that would be equivalent to the amount of tax payable under the Act of a province or other territory if
- (a) the person has, in that province or territory, paid a tax in respect of the use or consumption of fuel in a motor vehicle, aircraft, railway vehicle or aircraft that is similar to the tax under this Act; and
 - (b) the Minister has entered into an agreement under subsection (1) with the government of that province or territory, which provides that a similar relief will be given where the circumstances are reversed.

Deeming agreement

- (3) Despite any other provision of this Act, when an agreement under subparagraph (1)(b)(ii) is in effect, the amount of fuel consumed at a location to which the agreement applies that is subject to taxation under this Act is deemed to be the amount determined in accordance with the agreement.

Offences

Unlawful possession

45. (1) A person must not possess fuel for which a tax required to be paid under this Act has not been paid.

Retail sellers purchasing from persons who are not collectors

(2) A retail seller who is not a collector may only purchase fuel for the purpose of resale from a collector.

Non-registration

(3) A person must not act as an exporter, wholesaler or producer without being registered.

Importation without registration

(4) A person must not import fuel into Nunavut without being registered, except in the case of importation

- (a) by the consumer of the fuel; or
- (b) in circumstances that are exempt from taxation under subsections 2(4)(b) to (e).

False statements

46. (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

- (a) in the case of an individual, to a fine of not less than \$2,500 and not exceeding \$10,000 or to imprisonment for a term not exceeding six months or to both a fine and imprisonment; or
- (b) in the case of a corporation, to a fine of not less than \$2,500 and not exceeding \$50,000.

Failure to collect tax

(2) Every collector, or a person required to be registered as collector, who fails to collect a tax or an advance on tax imposed by this Act on collectors is liable on summary conviction

- (a) to a fine equal to the amount of the tax or advance on 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) subsections 5(1) and (2);
- (c) subsection 7(1) and (5);
- (d) section 9;

- (e) section 11 or 12;
- (f) subsection 23(6);
- (g) subsection 24(4) or (5);
- (h) subsection 28(5);
- (i) subsection 30(2) or (4);
- (j) section 45.

Punishment for other offences

- (4) The punishment for the purposes of subsection (3) is
- (a) in the case of an individual, a fine of not less than \$2,500 and not exceeding \$10,000, imprisonment for a term not exceeding six months, or to both a fine and imprisonment; or
 - (b) in the case of a corporation, to a fine of not less than \$2,500 and not exceeding \$50,000.

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 if 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

47. (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

48. 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

49. 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 fuel

50. If fuel 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 or the *Unlawful Property Forfeiture Act*,

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

Regulations

Regulations

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

- (a) respecting the volumetric rate of tax payable on liquid fuel, which must not be greater than 15 cents per litre;
- (a.1) respecting the volumetric, energy-based or mass-based rate of tax payable on non-liquid fuel;
- (b) respecting applications for refunds;
- (c) respecting the remitting of taxes and advances on taxes collected under this Act, including timing of remittances and information that is to accompany remittances;
- (d) respecting the overpayment or overcollection of taxes, including refunds, deductions and off-setting;
- (e) respecting the granting of rebates of tax payable under this Act, including proof to be provided on application for a rebate;
- (f) respecting application to be registered;
- (g) prescribing offences for the purposes of subparagraph 7(4)(a)(iii);
- (h) respecting the financial health requirements for collectors;
- (i) respecting cancellations under section 8;
- (j) respecting security to be provided under section 10;
- (k) respecting records to be maintained by collectors, exporters, retail sellers and persons who import fuel into Nunavut ;
- (l) respecting reports to be submitted by collectors, exporters and persons who import fuel into Nunavut ;
- (m) respecting administrative penalties imposed under paragraph 14(1)(b);
- (n) respecting the remission of administrative penalties under subsection 15(9);
- (o) respecting seizures in place under subsection 23(3);
- (p) prescribing the manner of determining the value of seized fuel for the purposes of section 23;

- (q) respecting notifications under paragraph 32(4)(a);
- (r) respecting the manner of notifying the Director under this Act;
- (s) respecting the service of notices under this Act;
- (t) respecting forms under this Act, including
 - (i) their content, and
 - (ii) if not otherwise provided for under this Act, who may approve them;
- (u) prescribing anything that this Act allows or requires to be prescribed;
- (v) respecting any other matter or thing necessary or advisable for carrying out the purposes and provisions of this Act; and
- (x) for any purpose for which regulations are authorized to be made.

Temperature compensation

(2) Regulations under paragraph (1)(a) must be based on a method involving the volume of fuel in litres that are corrected to the reference temperature of 15 degrees Celsius in accordance with the requirements imposed by or under the *Weights and Measures Act* (Canada).

Administrative penalties

- (3) 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

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

Transitional

Definitions

52. (1) In this section, "former Act " means the *Petroleum Products Tax Act*, R.S.N.W.T. 1988,c.P-5 and its regulations as they read immediately prior to their repeal by this Act.

Collectors

(2) A person who was authorized to be a collector under section 19 of the former Act immediately prior to the repeal of the former Act is deemed to be registered as a collector under section 7 of this Act on the coming into force of this Act.

Records

(3) Books or records referred to in section 7 of the former Act must be preserved for the amount of time required under that section, despite its repeal.

Reports

(4) Any report or return required to be made or filed under the former Act prior to its repeal must be made in accordance with the former Act, even if the report is due after the repeal of the former Act.

Collected taxes

(5) If a person has collected taxes payable under the former Act and has not remitted the taxes on or before the day the former Act is repealed, the person must remit the taxes to the Government of Nunavut.

Advances

(6) If a person has paid an advance with respect to taxes payable under the former Act, the portion of the advance that is outstanding following the collection of taxes under the former Act is deemed to be an advance of taxes payable under this Act.

Taxes owing

(7) Any taxes owing under the former Act on the day it is repealed may be assessed, collected and recovered in accordance with the former Act as if it had not been repealed, and a penalty may be imposed for arrears of those taxes in accordance with the former Act as if it had not been repealed.

Information

(8) Any information collected in the administration or enforcement of the former Act must be kept confidential and may only be used or disclosed in accordance with section 42 of this Act.

Consequential amendments

53. Subsection 38(4) of the *Qulliq Energy Corporation Act* is repealed.

Coordinating amendments

54. If the Commissioner in Executive Council fixes a fuel commencement date under section 55 of the *Qulliq Energy Corporation Act*, on the fuel commencement date,

- (a) the following provisions of this Act are amended by replacing "Government of Nunavut" wherever it appears with "Qulliq Energy Corporation":**
- (i) subsection 7(7),**
 - (ii) paragraph 23(7)(b),**
 - (iii) subsection 23(9),**
 - (iv) subsection 24(6); and**

(b) the following is added after subsection 16(2):

Exemption – Qulliq Energy Corporation

(3) This section does not apply to Qulliq Energy Corporation.

(c) the following is added after subsection 23(8):

Moneys to be remitted

(9.1) Qulliq Energy Corporation must remit the proceeds of sales under subsection (9) to the Government of Nunavut.

(d) the following is added after subsection 33(3):

Delivery to Qulliq Energy Corporation

(3.1) Any fuel forfeited under paragraph (3)(d) that is in sellable condition must be delivered to the Qulliq Energy Corporation.

Qulliq Energy Corporation may sell forfeited fuel

(3.2) When forfeit fuel is delivered to the Qulliq Energy Corporation under this section, the Qulliq Energy Corporation may sell the fuel in the same manner as any other fuel sold by the Qulliq Energy Corporation.

Moneys to be remitted

(3.3) Qulliq Energy Corporation must remit the proceeds of sales under subsection (3.2) to the Government of Nunavut.

(e) section 50 is renumbered as subsection 50(1);

(f) the following is added after subsection 50(1):

Delivery to Qulliq Energy Corporation

(2) Any fuel forfeited under subsection (1) that is in sellable condition must be delivered to the Qulliq Energy Corporation.

Qulliq Energy Corporation may sell forfeited fuel

(3) When forfeit fuel is delivered to the Qulliq Energy Corporation under this section, the Qulliq Energy Corporation may sell the fuel in the same manner as any other fuel sold by the Qulliq Energy Corporation.

Moneys to be remitted

(4) Qulliq Energy Corporation must remit the proceeds of sales under subsection (3) to the Government of Nunavut.

Repeal

55. The *Petroleum Products Tax Act*, R.S.N.W.T. 1988,c.P-5, and its regulations are repealed.

Coming into force

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