

Chapter 15: Nunavut

LAST UPDATE: AUGUST 2017

Nunavut – Main Language Laws

[Official Languages Act, S.Nu. 2008, c. 10](#)

N.B. – The current law is an unofficial consolidation and is also available in inuktitut and inuinnaqtun.

Preamble

Recognizing that the existence of Inuit in Nunavut from time immemorial, and also their presence elsewhere in the Arctic, constitutes a fundamental characteristic of Canada;

Recognizing that the social unity of Inuit in Nunavut, having a common Inuit Language, and having asserted an aboriginal title based on Inuit traditional and current use and occupation of lands, waters and land-fast ice existing in Nunavut, constitutes Nunavut a distinct society within Canada;

Affirming that, contrary to past practice in which the Inuit Language was legally, socially and culturally subordinated in government and elsewhere, it is desirable that the Inuit Language be recognized as

- (a) the indigenous language of Nunavut,
- (b) the spoken and preferred language of a majority of Nunavummiut,
- (c) a defining characteristic of the history and people of Nunavut, and of the Inuit as a people of the wider circumpolar world, and
- (d) a necessary element in
 - (i) the improvement of Inuit social, economic and cultural well-being, as contemplated by the *Nunavut Land Claims Agreement*, and
 - (ii) the development of the public service, and of government policies, programs and services, as contemplated by the *Nunavut Land Claims Agreement*;

Desiring to establish the Inuit Language, English and French as the Official Languages of Nunavut, having equality of status and equal rights and privileges as Official Languages;

Affirming that the Inuit of Nunavut have an inherent right to the use of the Inuit Language in full equality with the other Official Languages, and that positive action is necessary to protect and promote the Inuit Language and Inuit cultural expression, and is consistent with Canada's international undertakings, including the *International Covenant on Civil*

and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, proclaimed by the United Nations;

Observing that territorial institutions have an obligation under Article 32 of the *Nunavut Land Claims Agreement* to design and deliver programs and services that are responsive to the linguistic goals and objectives of Inuit, and that Nunavut and Canada are the government parties obliged to implement and give effect to the land claim rights of Inuit;

Being committed to the protection, promotion and revitalization of the Inuit Language, Inuit identity and Inuit cultural expression in Nunavut;

Desiring to provide in law for the use of the Inuit Language for all or any of the official purposes of Nunavut at the time and in the manner that is appropriate;

Affirming the Speaker's jurisdiction over the privileges and traditions of the Legislative Assembly and the independence of the courts of Nunavut to regulate their own processes consistent with the interests of justice in individual cases;

Determined to advocate for and to achieve the national recognition and constitutional entrenchment of the Inuit Language as a founding and official language of Canada within Nunavut;

Recognizing the heritage, cultural contribution and value of all three Official Language communities in Nunavut and affirming the commitment to

(a) establish a clear standard of communication and access to government services in the three Official Languages,

(b) protect and promote the French Language and the vitality of the Francophone community, consistent with the obligations of Nunavut and of Canada, and with their policies as mutually agreed, and

(c) provide a framework for action on the part of territorial institutions with the goal of ensuring that the Inuit and Francophone communities in Nunavut each have the means necessary to safeguard and strengthen their cultural expression, collective life and heritage for future generations; and

Understanding, because of the fundamental character of the values expressed and the important federal, territorial and Inuit objectives reflected in this Act, that the Official Languages Act shall enjoy quasi-constitutional status in law;

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

ANNOTATIONS

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII)

[60] Official languages statutes are quasi-constitutional and are to be given a broad purposive interpretation to achieve the goal of fostering official languages: See, for example, *R. v. Beaulac*, 1999 CanLII 684 (SCC), [1999] 1 S.C.R. 768, 173 D.L.R. (4th) 193 ("*Beaulac*"); *Jones v. Att. Gen.*

of *New Brunswick et al.*, 1974 CanLII 164 (SCC), [1975] 2 S.C.R. 182, 7 N.B.R. (2d) 526; *Att. Gen. of Quebec v. Blaikie et al.*, [1979] 2 S.C.R. 1016, 101 D.L.R. (3d) 394; *A.G. (Quebec) v. Blaikie et al.*, 1981 CanLII 14 (SCC), [1981] 1 S.C.R. 312, 123 D.L.R. (3d) 15; *Reference re: Manitoba Language Rights*, 1985 CanLII 33 (SCC), [1985] 1 S.C.R. 721, 35 Man. R. (2d) 83 (“*Manitoba Language Rights Reference*”); *Ford v. Quebec (Attorney General)*, 1988 CanLII 19 (SCC), [1988] 2 S.C.R. 712, 54 D.L.R. (4th) 577. Since such statutes mirror parts of the *Charter*, its interpretational principles are also relevant: *Lavigne v. Canada (Office of the Commissioner of Official Languages)*, 2002 SCC 53 (CanLII), [2002] 2 S.C.R. 773 at para. 23. *Charter* rights are to be given a broad and generous interpretation so as to enhance and preserve the underlying rights: *Hunter v. Southam Inc.*, 1984 CanLII 33 (SCC), [1984] 2 S.C.R. 145 at 156, 55 A.R. 291; *R. v. Big M Drug Mart Ltd.*, 1985 CanLII 69 (SCC), [1985] 1 S.C.R. 295 at 344, 60 A.R. 161; *United States of America v. Cotroni*, 1989 CanLII 106 (SCC), [1989] 1 S.C.R. 1469 at 1480, 48 C.C.C. (3d) 193. Further support for this approach is found in s. 10 of the *Interpretation Act*, R.S.N.W.T. 1988, c. I-8 (“*Interpretation Act NWT*”), which states that all enactments are to be construed as remedial and are to be given fair, large and liberal construction and interpretation.

[61] The trial judge correctly concluded that the *OLA* is a quasi-constitutional statute and should be interpreted as such. However, the broad and purposive approach applied to the interpretation of *Charter* rights should not override the specific words of a statute, which might limit remedies and should be afforded their ordinary meaning. As an interpretive tool, “*Charter* values” are limited to “circumstances of genuine ambiguity, *i.e.*, where a statutory provision is subject to differing, but equally plausible, interpretations”: *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42 (CanLII), [2002] 2 S.C.R. 559 at para. 62; also see *Charlebois v. Saint John (City)*, 2005 SCC 74 (CanLII), [2005] 3 S.C.R. 563 at para. 23.

[...]

[123] As discussed at para. 60, official language statutes are interpreted by using *Charter* principles. The underlying principle is the protection of minorities: see *Lalonde v. Ontario (Commission de restructuration des services de santé)* (2001), 2001 CanLII 21164 (ON CA), 56 O.R. (3d) 505, 208 D.L.R. (4th) 577 at para. 125 (C.A.) (“*Lalonde*”) and *Kilrich Industries Ltd. v. Halotier*, 2007 YKCA 12 (CanLII), 161 C.R.R. (2d) 331 at para. 53 (“*Halotier*”). The trial judge applied principles from language rights jurisprudence, especially *Beaulac* where the Supreme Court confirmed, at para. 22, that substantive equality is the correct norm. We agree with the COLC that substantive equality is the result envisaged by the legislature in enacting s. 16 of the *Charter* and ss. 4 and 5 of the *OLA*. Accordingly, the trial judge’s use of the expression “obligations of result”, was appropriate and supported by *Beaulac*.

[...]

[326] The *OLA*’s status is higher than that of other legislation. As discussed at para. 60, it is quasi-constitutional in nature and must be interpreted in accordance with principles used to interpret the *Charter*. That is precisely what the trial judge did.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

[Giroux v. Yellowknife Housing Authority](#), 2014 NWTSC 77 (CanLII)

[21] Regarding disbursements, the YHA [Yellowknife Housing Authority] is claiming \$1,249.30. Most of this amount relates to the travelling and living expenses of the senior counsel on the case, who does not reside in the Northwest Territories.

[22] The eligibility of this type of disbursement is governed by Subrule 648(4), which reads as follows:

648. . . .

(4) The proper travelling and living expenses of a solicitor who does not reside in the Northwest Territories are recoverable under subrule (3) only where, in the opinion of the Court,

(a) the expertise required to perform the particular service was not available from those solicitors resident in the Territories; or

(b) conflicts of interest prevented solicitors resident in the Territories from acting in the matter.

[...]

[...]

[25] According to the YHA, it was impossible to retain resident counsel to represent it, because the appeal involved the application of the *Canadian Charter of Rights and Freedoms* (the *Charter*) and had to be conducted in French. The YHA argues that, in order to retain a solicitor who had *Charter* expertise and was able to argue in French, it had to hire a solicitor from outside the Territory.

[26] The fact that a dispute raises *Charter* issues is not exceptional and cannot, on its own, justify retaining non-resident counsel.

[27] I recognize that the language in which the appeal had to proceed necessarily restricted the pool of solicitors able to take on this case. The number of French-speaking counsel who practice law in the Northwest Territories is certainly limited. The fact remains, however, that some of the members of the Law Society of the Northwest Territories who reside in this jurisdiction do speak French.

[28] The YHA did not present any evidence about its efforts to attempt to retain the services of a resident solicitor to represent it in this appeal. The lack of evidence establishing the need for retaining counsel from outside the jurisdiction is one of the factors that a court can consider when this type of claim is presented. *Nielsen v. Nielsen*, supra, at Paragraphs 55 and 56. I do not think that it is appropriate for the Court to assume that no French-speaking solicitor in the Northwest Territories would have been qualified to represent the YHA.

[29] This aspect of the YHA's claim also raises a broader issue concerning the application of rule 648(4)(a). An overly broad interpretation of this Rule could become a deterrent for individuals wishing to assert their right to use French in any proceeding before the Court, as they are entitled to pursuant to Subsection 9(1) of the *Official Languages Act*, R.S.N.W.T. 1988, c. O-1.

[30] It seems contrary to the spirit of that *Act* to impose financial consequences on those who choose to exercise the rights it protects, especially as the preamble of the *Act* expresses, among

other things, the desire “to establish English and French as Official Languages of the Northwest Territories having equality of status and equal rights and privileges as Official Languages”.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. However, the *Official Languages Act* that was in force in Nunavut at the time of its creation has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

Nunavut (Minister of the Environment) v. WSCC, 2013 NUCJ 11 (CanLII)

[23] Laws may be constitutional, quasi-constitutional, or of general application. The paramountcy of legislation may be determined by reference to, amongst other things, its characterization as constitutional, quasi-constitutional, or of general application. Each type or level of legislation is subject to somewhat different rules of interpretation.

[24] Quasi-constitutional legislation is paramount to laws of general application. Any exemption to the application of quasi-constitutional legislation must be explicit and narrowly interpreted.

[25] Quasi-constitutional legislation is identified by canvassing the jurisprudence or by reading the legislation in question. Some legislation, such as human rights legislation, has long been identified by the courts as being quasi-constitutional in nature. On occasion, the legislation in question may state that it is quasi-constitutional in nature. Such is the case with the *Official Languages Act*, R.S.N.W.T. 1988, c. O-1, as duplicated for Nunavut by s.29 of the *Nunavut Act*, S.C. 1993, c.28, and the *Inuit Language Protection Act*, S.Nu. 2008, c.17.

Interpretation

1. Definitions

1. In this Act,

"administrative head" means

- (a) in relation to a department of the Government of Nunavut, its deputy minister,**
- (b) in relation to the Legislative Assembly, the Clerk of the Legislative Assembly,**
- (c) in relation to the Nunavut Court of Justice or the Court of Appeal, the Clerk of the Nunavut Court of Justice,**
- (d) in relation to a municipality, the senior administrative officer, and**
- (e) in relation to a public agency, the chief executive officer or, if there is no chief executive officer, such individual as the Minister may designate in the regulations as administrative head for the purposes of this Act; (*responsable administratif*)**

"Inuit Language" means Inuit Language as defined in the *Inuit Language Protection Act*; (*langue inuit*)

"judicial or quasi-judicial body" means the Nunavut Court of Justice, the Court of Appeal and all bodies established by the laws of Nunavut for the exercise of an adjudicative function; (*organisme judiciaire ou quasi judiciaire*)

"Legislative Assembly" means the Legislative Assembly and all of its institutions and offices, but not the constituency offices of Members of the Legislative Assembly; (*Assemblée législative*)

"Management and Services Board" means the Management and Services Board established by the Legislative Assembly and Executive Council Act; (*Bureau de régie et des services*)

"Minister" means the Minister of Languages referred to in subsection 13(1), unless a contrary intention appears; (*ministre*)

"Official Languages" means the languages referred to in subsection 3(1); (*langues officielles*)

"public agency" means, unless otherwise provided by regulation, a body that is

- (a) established by the laws of Nunavut,
- (b) subject to the direction of a Minister or the Executive Council, and
- (c) identified as a public agency under subsection 1(1) of the Financial Administration Act; (*organisme public*)

"territorial institution" means

- (a) the Government of Nunavut,
- (b) a judicial or quasi-judicial body,
- (c) the Legislative Assembly, and
- (d) a public agency. (*institution territoriale*)

2. (1) Constitutional rights, including aboriginal rights, paramount

2. (1) Nothing in this Act shall be construed so as to abrogate or derogate from

- (a) the status of or any constitutional or other rights in respect of the English or French languages;
- (b) any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*, including but not limited to,

(i) the objectives, rights and obligations affirmed in the *Nunavut Land Claims Agreement*;

(ii) any responsibility for implementation that is required to give effect to the Nunavut Land Claims Agreement;

(c) any legal or customary right or privilege acquired or enjoyed by Inuit with respect to their language, either before or after the coming into force of this Act; or

(d) any responsibility of the Parliament and Crown of Canada concerning the linguistic or cultural rights or heritage of Inuit or other linguistic minorities in Nunavut.

2. (2) Primacy of Official Language rights

2. (2) If a provision of section 3, 4, 5, 7, 8, 9, 11 or 12 is inconsistent with or in conflict with a provision of an Act other than the *Human Rights Act*, the provision of this Act prevails.

2. (3) Act not a limit

2. (3) Nothing in this Act shall be construed so as to prevent a territorial institution or municipality from providing or authorizing language services that exceed the requirements of this Act and the regulations.

Official Languages

3. (1) Official Languages

3. (1) The Inuit Language, English and French are the Official Languages of Nunavut.

3. (2) Status

3. (2) To the extent and in the manner provided under this Act, the Official Languages of Nunavut have equality of status and equal rights and privileges as to their use in territorial institutions.

ANNOTATIONS – SUBSECTION 3(2)

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII)

[32] Although s. 5 declares that all the official languages have equal status and equal rights and privileges as to their use in all government institutions (a term defined since 2003 in s. 1 as including a department or ministry of the GNWT [Government of the Northwest Territories], the Office of the Legislative Assembly, and certain other bodies so designated by regulations), that is only “to the extent and in the manner provided” in the *OLA* and its regulations. As an example of how the *OLA* [Northwest Territories *Official Languages Act*] differentiates between English and French on the one hand, and the Aboriginal languages on the other, the sections principally engaged by this appeal (ss. 7(1), 8 and 11(1)) apply only to English and French and not to the Aboriginal languages. In contrast, under s. 6 (a section not at issue in this appeal), any official language may be used in the debates and other proceedings of the Assembly.

[...]

[38] Many of the sections of the *OLA* are nearly identical to relevant parts of the *Charter*, although the *OLA* contains some rights that are more extensive than those in the *Charter*. Appendix C summarizes the similarities and differences.

[39] Briefly, s. 16(1) of the *Charter* is reflected in ss. 4 and 5 of the *OLA*. Presumably, the reason the *OLA* has two sections, whereas the *Charter* only has one, is the limiting language of s. 5 of the *OLA*: “to the extent and in the manner provided in this Act”. This phrase permits the *OLA* to treat Aboriginal languages differently than English and French.

[...]

[123] As discussed at para. 60, official language statutes are interpreted by using *Charter* principles. The underlying principle is the protection of minorities: see *Lalonde v. Ontario (Commission de restructuration des services de santé)* (2001), 2001 CanLII 21164 (ON CA), 56 O.R. (3d) 505, 208 D.L.R. (4th) 577 at para. 125 (C.A.) (“*Lalonde*”) and *Kilrich Industries Ltd. v. Halotier*, 2007 YKCA 12 (CanLII), 161 C.R.R. (2d) 331 at para. 53 (“*Halotier*”). The trial judge applied principles from language rights jurisprudence, especially *Beaulac* where the Supreme Court confirmed, at para. 22, that substantive equality is the correct norm. We agree with the COLC [Commissioner of Official Languages of Canada] that substantive equality is the result envisaged by the legislature in enacting s. 16 of the *Charter* and ss. 4 and 5 of the *OLA*. Accordingly, the trial judge’s use of the expression “obligations of result”, was appropriate and supported by *Beaulac*.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

3. (3) Inuinnaqtun

3. (3) In its application to Inuinnaqtun, this Act shall be interpreted and implemented in a manner that is consistent with the need to give priority to

(a) the revitalization of Inuinnaqtun; and

(b) improved access to services under sections 8 to 12 in the communities where Inuinnaqtun is indigenous.

Legislative Assembly

4. (1) Proceedings of Legislative Assembly

4. (1) Everyone has the right to use any Official Language in the debates and other proceedings of the Legislative Assembly.

ANNOTATIONS – SUBSECTION 4(1)

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII)

[32] Although s. 5 declares that all the official languages have equal status and equal rights and privileges as to their use in all government institutions (a term defined since 2003 in s. 1 as including a department or ministry of the GNWT [Government of the Northwest Territories], the Office of the Legislative Assembly, and certain other bodies so designated by regulations), that is only “to the extent and in the manner provided” in the *OLA* and its regulations. As an example of how the *OLA* [Northwest Territories *Official Languages Act*] differentiates between English and French on the one hand, and the Aboriginal languages on the other, the sections principally engaged by this appeal (ss. 7(1), 8 and 11(1)) apply only to English and French and not to the Aboriginal languages. In contrast, under s. 6 (a section not at issue in this appeal), any official language may be used in the debates and other proceedings of the Assembly.

[...]

[276] The term “Legislative Assembly” means something different than “Legislature or Government of the Northwest Territories” employed in s. 8, since ss. 6 and 7 of the *OLA* use the former term, while s. 8 employs the latter. This view is confirmed by the definition of “Legislature” in s. 28(1) of the Interpretation Act NWT: “the Commissioner acting by and with the advice and consent of the Legislative Assembly”. That definition makes it plain that the Assembly is not the same as the Legislature.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

4. (2) Records and journals

4. (2) Records and journals of the Legislative Assembly shall be printed and published in English and French and both versions are equally authoritative.

SEE ALSO:

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII).

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in

Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

4. (2.1) Records and journals in the Inuit Language

4. (2.1) The Speaker, on the recommendation of the Management and Services Board, may

(a) require that an Inuit Language version of a record or journal of the Legislative Assembly be published; and

(b) declare authoritative an Inuit Language version of a record or journal of the Legislative Assembly.

4. (3) Sound recordings

4. (3) Copies of the sound recordings of the public debates of the Legislative Assembly, in their original and interpreted versions, shall be provided to any person on reasonable request.

ANNOTATIONS – SUBSECTION 4(3)

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII)

[261] Apart from the matter of privilege, the appellants' main argument arises from s. 7(3), which obliges the GNWT [Government of the Northwest Territories] to provide "copies of the sound recordings of the public debates of the Legislative Assembly, in their original and interpreted versions", to any person on reasonable request. The appellants assert that if the legislature had intended to require the broadcast of debates in both languages, it would have said so more clearly and that the trial judge's interpretation of s. 11(1) has the effect of reading a requirement into the law that is not otherwise there. Essentially, the argument is that because the *OLA* [Northwest Territories *Official Languages Act*] deals specifically with the availability of sound recording of debates in s. 7(3), s. 11(1) should be interpreted to exclude broadcasting of the debates as a service that must be available in French and English.

[262] This argument has some superficial attraction because when there is a conflict between a general and a specific provision, the conflict may be avoided by applying the specific provision to the exclusion of the more general: *BG Checo Intl. Ltd. v. B.C. Hydro*, 1993 CanLII 145 (SCC), [1993] 1 S.C.R. 12 at 24, 99 D.L.R. (4th) 577. The argument cannot be sustained here, however, because there is no conflict between ss. 7(3) and 11(1).

[263] The right to obtain "sound recordings" contained in s. 7(3) is not the same as the right to receive "available services" found in s. 11(1). The debates are broadcast on television. Thus, the medium employed is different than that of a "sound recording". Moreover, although s. 7(3) contemplates the provision of sound recordings, it is up to an individual to request the recording. In contrast, a television broadcast is freely available to anyone who has access to a television. Further, the sound recording will be provided on "reasonable request", a term that gives discretion to whomever considers the request.

[264] The fact that the right in s. 7(3) to obtain a sound recording is more narrow than the unlimited right in s. 11(1) to receive “available services” from a head office suggests that s. 7(3) was not intended to limit the scope of s. 11(1). The broadcasting policy was put into place long after passage of the *OLA*, which also undermines any argument that the policy informs the interpretation of s. 11(1).

[265] The trial judge correctly concluded that broadcasting of the debates is an “available service”. In *Quigley v. Canada* (House of Commons), 2002 FCT 645 (CanLII), [2003] 1 F.C. 132, moot appeal 2003 FCA 465 (CanLII), 314 N.R. 375, a similar conclusion was reached as regards the obligation of the House of Commons under s. 25 of the *OLAC* [*Official Languages Act*] to ensure that “available services” provided on behalf of a federal institution be provided in both official languages. There, the problem was that some service providers failed to make available to the public all the types of signals that had been provided by the House of Commons to the Cable Public Affairs Channel. The Federal Court concluded that “available services” under s. 25 included the broadcast of debates. Indeed, the appellants in this case did not press the argument that the broadcast of debates is not a “service”.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

5. (1) Acts

5. (1) The Acts of the Legislative Assembly shall be made, printed and published in English and French and both versions are equally authoritative.

ANNOTATIONS – SUBSECTION 5(1)

[*Beamish v. Miltenberger*, 1996 CanLII 2942 \(NWT SC\)](#)

[5] In the Northwest Territories, the English and French versions of a statute are equally authoritative: see s.10 of the *Official Languages Act*, R.S.N.W.T. 1988, c. O-1. This gives rise to what has been termed as the “equal authenticity rule”. Both language versions are authoritative and neither version enjoys priority or paramountcy over the other (even if one version can be considered as being merely a translation of the other). Discrepancies cannot be resolved by giving automatic preference to one. Both have equal status and authority: *Re Manitoba Language Rights*, 1985 CanLII 33 (SCC), [1985] 1 S.C.R. 721.

[6] The effect of the “equal authenticity rule” where there are discrepancies was explained as follows by Prof. R. Sullivan in *Driedger on the Construction of Statutes* (3rd ed., 1994) at page 218:

Where the two versions of a bilingual enactment appear to say different things, the courts are obliged by the equal authenticity rule to read and rely on both versions. If an acceptable meaning common to both versions cannot be found, some way of dealing with the discrepancy must be found. However, the solution must depend on something other than preference for a

particular language. It is inconsistent with the equal authenticity rule to resolve discrepancies between two language versions by giving automatic preference to one.

It is clear from *Manitoba Language Rights* that the equal authenticity rule applies even where one language version is actually a translation of the other. From a constitutional point of view the key factor here is not preparation but enactment. So long as both language versions have at some point been enacted into law, both are original versions and have equal status and authority.

[7] The fact that there is a discrepancy requires the application of the "shared meaning rule". This was described in *Driedger* (at page 220): "Where the two versions of bilingual legislation do not say the same thing, the meaning that is shared by both ought to be adopted unless this meaning is for some reason unacceptable." This is not the equivalent of saying that the "lowest common denominator" is the applicable meaning although one author does suggest that where one version has a broader meaning than another, the shared meaning is the more narrow of the two: P.- A. C tT (sic), *The Interpretation of Legislation in Canada* (2nd ed., 1993) at pages 275-276.

[8] The search for a shared meaning must also, of course, keep in mind the importance of context and of reading the provision, not in isolation, but as part of the statute as a whole.

[9] I will now turn to the application of these general rules to the arguments advanced on behalf of the respondent.

[10] Counsel for the respondent submitted that preference should be given to the English version because it has been consistent in its wording since enactment of the *Elections Act* in 1986. Section 10 of the *Official Languages Act* did not come into force until 1989. To give effect to this argument however is to negate the "equal authenticity rule". The law speaks as of today and the fact that the English version predates the French is irrelevant.

N.B. 1 – Paragraph 7(1) of the current *Official Languages Act* of the Northwest Territories was formerly paragraph 10(1) of the previous version of the *Act*.

N.B. 2 – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

5. (2) Inuktitut versions of bills

5. (2) **An Inuktitut version of a bill must be made available at the time the bill is introduced.**

5. (3) Order to publish Inuit Language translation

5. (3) **The Commissioner in Executive Council may, by order, require that an Inuit Language version of one or more Acts be published.**

5. (4) Authoritative Act in the Inuit Language

5. (4) The Legislative Assembly, on the recommendation of the Executive Council, may, by resolution, designate an Inuit Language version of an Act to be authoritative.

6. Regulations

6. The Speaker, on the recommendation of the Management and Services Board, may make regulations respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act as the Speaker, on the recommendation of the Management and Services Board, considers necessary to ensure that Legislative Assembly is in compliance with sections 4, 5, 11 and 12, including regulations respecting signage, notices, translation, interpretation, the giving of notice and the duties of the officers and employees of the Legislative Assembly.

Nunavut Gazette

7. (1) Publication in Nunavut Gazette

7. (1) An instrument required by law to be printed and published in the Nunavut Gazette is of no force or effect if it is not printed and published in English and French.

7. (2) Inuit Language translation

7. (2) The Commissioner in Executive Council may, by order,

(a) require the publication, in the Nunavut Gazette, of an Inuit Language version of one or more instruments required by law to be published in the Nunavut Gazette; and

(b) provide that an Inuit Language version of one or more instruments required by law to be published in the Nunavut Gazette is authoritative.

Administration of Justice

8. (1) Judicial or quasi-judicial proceedings

8. (1) In the proceedings of a judicial or quasi-judicial body, any of the Official Languages may be used by

(a) any person before, in a pleading in, or in process issuing from the judicial or quasi-judicial body;

(b) a presiding member of the judicial or quasi-judicial body.

8. (2) Language of choice

8. (2) The rights conferred by subsection (1) apply whether or not the person can understand or communicate in any other language.

8. (3) Interpretation in civil proceedings

8. (3) A party or witness in civil proceedings is entitled

(a) to request and receive interpretation services in his or her Official Language of choice,

(i) in the manner prescribed by the Nunavut Court of Justice or the Court of Appeal under section 10, or

(ii) in the manner prescribed under paragraph 38(1)(c)(i) for a quasi-judicial body; and

(b) to be actively notified of this right before having made any request for interpretation.

8. (4) Interpretation for the public

8. (4) A judicial or quasi-judicial body shall cause facilities to be made available for the interpretation of the proceedings, including evidence given and taken, in an Official Language if

(a) the body considers the proceedings to be of general public interest or importance; or

(b) the body considers it desirable to do so for the benefit of members of the public attending the proceedings.

ANNOTATIONS – SUBSECTION 8(4)

[Commissioner of the Northwest Territories v. Canada](#), [2001] 3 FCR 641, 2001 FCA 220 (CanLII)

[18] Nor is the Court called upon to prejudge the quality of the French-language services that the Franco-ténois would receive in the Supreme Court of the Territories should the action ultimately be disposed of in that Court. Section 12 of the Territories' *Official Languages Act* allows the use of French in the Territories' courts and in any pleading in or process issuing from a court, and section 13 of the *Act* requires that final decisions, orders and judgments, including any reasons given for them, shall be issued in both English and French. We are entitled to assume, therefore, that the right of the Franco-ténois to be tried in French would be respected if the proceedings were to be brought in the Supreme Court of the Territories.

N.B. 1 – Section 9 of the current *Official Languages Act* of the Northwest Territories was formerly section 12 of the previous version of the *Act*.

N.B. 2 – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed

and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

8. (5) Simultaneous or consecutive interpretation

8. (5) The interpretation referred to in this section shall be

- (a) simultaneous, if the interpretation is provided between French and English; and
 - (b) consecutive or simultaneous interpretation, if interpretation is provided to support the use of the Inuit Language, as determined by the judicial or quasi-judicial body on considering, in the particular circumstances of the case, which approach is more consistent with the interests of justice and fairness.
-

9. (1) Decisions, orders and judgments

9. (1) Any person before a judicial or quasi-judicial body is entitled to request and receive in the Official Language of his or her choice, a printed or recorded translation of a final decision, order or judgment.

9. (2) Public or other grounds

9. (2) A final decision, order or judgment issued by a judicial or quasi-judicial body shall be provided with translations in

- (a) the other Official Languages if the decision, order or judgment determines a question of law of general public interest or importance in Nunavut;
- (b) another Official Language if the decision, order or judgment determines a question of law of specific interest or importance affecting the Official Language community in question; or
- (c) another Official Language if the decision, order or judgment determines a question of significant interest or importance for a participant who used that Official Language in the proceedings.

9. (3) Delay in issuing translation

9. (3) A judicial or quasi-judicial body may provide an Official Language translation of a decision at a reasonable later time if the simultaneous provision of one or more Official Language translations of a final decision, order or judgment under subsection (1) or (2) would occasion a delay

- (a) prejudicial to the public interest; or
- (b) resulting in injustice or hardship to a party to the proceedings.

9. (4) Oral rendition of decision not affected

9. (4) Nothing in this section shall be construed as prohibiting the oral rendition or provision in only one Official Language of a decision, order, judgment, or reasons if any.

9. (5) Validity not affected

9. (5) Nothing in this section, or in section 8, shall be construed as affecting the validity of a decision, order or judgment to which this Act applies.

ANNOTATIONS

[Commissioner of the Northwest Territories v. Canada](#), [2001] 3 FCR 641, 2001 FCA 220 (CanLII)

[18] Nor is the Court called upon to prejudge the quality of the French-language services that the Franco-ténois would receive in the Supreme Court of the Territories should the action ultimately be disposed of in that Court. Section 12 of the Territories' *Official Languages Act* allows the use of French in the Territories' courts and in any pleading in or process issuing from a court, and section 13 of the *Act* requires that final decisions, orders and judgments, including any reasons given for them, shall be issued in both English and French. We are entitled to assume, therefore, that the right of the Franco-ténois to be tried in French would be respected if the proceedings were to be brought in the Supreme Court of the Territories.

N.B. 1 – Section 10 of the current *Official Languages Act* of the Northwest Territories was formerly section 13 of the previous version of the *Act*.

N.B. 2 – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

10. Rules of Court

10. To ensure that the Nunavut Court of Justice and the Court of Appeal are in compliance with sections 8, 9, 11 and 12, the Nunavut Court of Justice and the Court of Appeal may, subject to the approval of the Commissioner, make rules respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act or in procedural rules already in force, including rules respecting signage, notices, translation, interpretation and the giving of notice.

Communication with and Services to the Public

11. (1) Signs and instruments

11. (1) Every territorial institution shall

- (a) display its public signs, if any, in the Official Languages;**
- (b) make or issue its instruments in writing directed to or intended for the notice of the public in the Official Languages; and**
- (c) ensure that each Official Language version or portion of a sign and each version or portion of an instrument to which this section applies is designed or displayed so as to have an equal prominence, impact or effect with all the other Official Languages used.**

11. (2) Duty of administrative head

11. (2) The administrative head of a territorial institution having a duty under subsection (1) shall establish and maintain the operational policies necessary to implement this section.

12. (1) Other communication with and services to the public

12. (1) A member of the public in Nunavut has the right to communicate with and receive the services of a territorial institution in an Official Language in accordance with this section.

12. (2) Head or central service office

12. (2) Every territorial institution has the duty to ensure that any member of the public in Nunavut can communicate with and receive available services from its head or central service offices in the Official Languages.

12. (3) Other offices where significant demand

12. (3) A territorial institution has the duty described in subsection (2) with respect to its other offices if there is a significant demand for communications with and services from the office in an Official Language as evidenced by any of the following:

- (a) the proportion of the population served by an office who have designated the Official Language as their first or preferred language, and the particular characteristics of that population;**
- (b) the volume of communications or services between an office and members of the public using each Official Language.**

12. (4) Other offices of a territorial institution

12. (4) A territorial institution has the duty described in subsection (2) with respect to its other offices if due to the nature of an office it is reasonable that communications with and services from that office be available in an Official Language, as evidenced by any of the following:

(a) the scope, impact or importance of the services in question for members of the public in a specific community or region, in the territory as a whole or in another geographic area;

(b) the relevance of the services in question to the health, safety, security of members of the public or to the similarly essential matters prescribed by regulation.

12. (5) Services likely to promote indigenous language

12. (5) Despite subsections (3) and (4), in the event of special concern about language loss or assimilation, the Commissioner in Executive Council may, by regulation, provide that the duty described in subsection (2) applies to the office of a department of the Government of Nunavut or a public agency on the grounds that its communications or services, or their availability or method of delivery, are likely to have a revitalizing impact on or promote the use of the language indigenous to the affected area or group.

12. (6) Oral and written communications

12. (6) This section applies to both oral and written communications.

12. (7) Duties of administrative head

12. (7) The administrative head of a territorial institution having a duty under subsections (2) to (5) shall take appropriate measures consistent with this Act, including posting such signs, providing such notices or taking such other measures as are appropriate

(a) to provide an active offer of the services in question, making it known to members of the public that they have the right to communicate and receive available services in their Official Language of choice;

(b) to ensure that the services in question are

(i) available to members of the public on request,

(ii) delivered with attention to cultural appropriateness and effectiveness, and

(iii) of comparable quality;

(c) to implement this section with respect to its communications and services to the public, including communications or services that are delivered through contract with a third party; and

(d) to establish and maintain the operational policies necessary to implement this section.

12. (8) Municipal communications and services

12. (8) If there is a significant demand for communications with and services in an Official Language in a municipality, the administrative head of the municipality has the duty to ensure that members of the public entitled to the municipal communications and services prescribed by regulation, can receive them in that Official Language.

Management and Accountability

13. (1) Minister of Languages

13. (1) The Minister of Languages, appointed by the Commissioner on the advice of the Premier under section 66 of the *Legislative Assembly and Executive Council Act*, is responsible for the administration of this Act and the regulations.

13. (2) Mandate

13. (2) The Minister shall

- (a) promote and advocate the equal status of the Official Languages, and the full realization and exercise of the rights and privileges as to the use of the Official Languages provided in this Act;**
- (b) promote the efficient and effective implementation of and compliance with this Act by territorial institutions and municipalities;**
- (c) coordinate the implementation, monitoring, management and evaluation of language obligations, policies, programs and services by departments of the Government of Nunavut and public agencies; and**
- (d) undertake other duties and functions as required by the Commissioner in Executive Council.**

13. (3) Implementation plan

13. (3) The Minister shall, in consultation with territorial institutions and municipalities,

- (a) develop and maintain a comprehensive plan for the implementation of language obligations, policies, programs and services by departments of the Government of Nunavut and public agencies;**
- (b) include measures in the plan**
 - (i) to evaluate and ensure that members of the public service who make or issue communications or deliver services to the public in an Official Language have an acceptable level of oral and written proficiency and skill,**
 - (ii) to designate a sufficient number of staff positions in the public service for the discharge of the obligations and duties set out in this Act,**
 - (iii) to monitor and evaluate the performance of departments of the Government of Nunavut or public agencies under this Act and the *Inuit Language Protection Act*, including the periodic review or audit of their compliance and effectiveness,**
 - (iv) to review the laws of Nunavut and the policies of the Government of Nunavut to ensure their consistency, compliance and effectiveness in**

implementing and promoting the objectives of this Act and the *Inuit Language Protection Act*, and

(v) to develop over time, using an approach with reasonable medium and long-term goals, the terminology, skills and human resources required for the wider use of the Inuit Language and fuller performance of duties in relation to the Inuit Language in contexts relating to the laws and administration of justice in Nunavut;

(c) involve Inuit in the setting of priorities, development and maintenance of the plan, and the monitoring and evaluation of results from the plan, in a manner consistent with Article 32 of the *Nunavut Land Claims Agreement*; and

(d) involve the English and French language communities and persons or agencies likely to be impacted by the plan during the setting of priorities, development and maintenance of the plan, and the monitoring and evaluation of results from the plan, as it relates to their specific interests.

13. (4) Minister may direct

13. (4) The Minister may direct the administrative head of a department of the Government of Nunavut, a public agency or a municipality

(a) to submit an annual or longer-term implementation plan for consideration under subsection (3); and

(b) to provide the information that the Minister considers necessary to exercise the powers or perform the duties under this section.

13. (5) Executive Council oversight

13. (5) The Executive Council shall

(a) approve, reject, vary or refer back to the Minister with directions, the plan developed under subsection (3), and any amendments to the plan that are proposed; and

(b) receive or require periodic reports from the Minister, or from the administrative head of a department of the Government of Nunavut or a public agency, regarding the performance and implementation of the plan.

13. (6) Independence affirmed

13. (6) In exercising the powers and performing the duties under this section, the Minister shall conform to

(a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and

(b) the independence, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

S.Nu. 2009,c.11,s.18.

13.1 (1) Official Languages Promotion Fund

13.1 (1) The Official Languages Promotion Fund is established as a special account in the Consolidated Revenue Fund.

13.1 (2) Purposes

13.1 (2) The assets in the fund must be used only to promote the following purposes:

- (a) recognizing and advancing the equal status, rights and privileges of the Official Languages;**
- (b) empowering linguistic and cultural expression in the Official Languages, using all kinds of media;**
- (c) improving Inuit Language literacy and proficiency and reversing language loss and assimilation;**
- (d) developing or revitalizing the Inuit Language and supporting its ongoing use as a language of education, work and daily life in Nunavut;**
- (e) enhancing public, national and international awareness and understanding of this Act, the *Inuit Language Protection Act* and the linguistic and cultural contributions, heritage and aspirations of Nunavummiut;**
- (f) strengthening the vitality of the Francophone and Inuit language communities and creating a positive environment for their cultural expression and collective life in Nunavut.**

13.1 (3) Credits

13.1 (3) The following must be credited to the fund:

- (a) money required by court order to be paid into the fund;**
- (b) fines collected under the *Summary Conviction Procedures Act* in relation to any offence under section 27 of this Act or section 33 of the *Inuit Language Protection Act*;**
- (c) donations, bequests and all other payments directed to the fund;**
- (d) a working capital advance to the fund, payable by the Minister from moneys appropriated by the legislature for the purpose.**

13.1 (4) Conditional donations

13.1 (4) The Minister may

(a) accept donations, bequests or payments that are subject to conditions if the conditions are, in the opinion of the Minister, appropriate to the purposes of the fund; or

(b) may refuse to accept a conditional donation, bequest or payment.

13.1 (5) Compliance with conditions

13.1 (5) Where the Minister accepts a donation, bequest or payment that is subject to conditions, the Minister is bound to comply with those conditions.

13.1 (6) Assignment of authority

13.1 (6) The Minister may assign the persons necessary to assist the Minister in the administration of the fund.

13.1 (7) Investments

13.1 (7) Except as authorized under subsection (9), the Minister shall invest money standing to the credit of the fund in accordance with section 57 of the *Financial Administration Act*.

13.1 (8)

13.1 (8) Interest or income earned by the fund accrues to and becomes part of the fund.

13.1 (9) Disbursement

13.1 (9) The fund must be disbursed in the manner prescribed.

13.1 (10) No deficit

13.1 (10) The fund must not incur a deficit balance.

13.1 (11) Fiscal year

13.1 (11) The fiscal year of the fund is the same as for the Government of Nunavut.

13.1 (12) Accounts

13.1 (12) The Minister shall ensure that the following records are maintained separately for the accounts of the fund for each fiscal year:

(a) complete and accurate financial records of its operations that include the prescribed information;

(b) any other prescribed records or information.

S.Nu. 2009,c.11,s.19.

14. (1) Agreements

14. (1) The Minister may enter into agreements with the Government of Canada respecting the promotion and protection of the Official Languages or the Official Language communities in Nunavut and shall promote and protect the Official Languages and the vitality of the Official Language communities in a manner consistent with the obligations of Nunavut and of Canada, and with their policies as mutually agreed.

14. (2) Other agreements

14. (2) The Minister may enter into agreements with the Government of Canada, or another person or agency, respecting the funding or delivery of programs or services or other matters relating to the implementation or any other aspect of this Act or the regulations.

15. (1) Minister's annual report

15. (1) The Minister shall, within 12 months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly and the Languages Commissioner a report that describes

(a) all the activities, results achieved and use of government resources during the preceding fiscal year in relation to the discharge of language obligations;

(b) the establishment, operation or performance of policies, programs and services in this regard; and

(c) the other information that the Minister considers appropriate.

15. (2) Repealed, S.Nu. 2009,c.11,s.20.

15. (2.1) Report to address Official Languages Promotion Fund

15. (2.1) The Minister's annual report shall set out an income statement, balance statement and statement of operations of the Official Languages Promotion Fund established by section 13.1.

15. (3) Tabling report

15. (3) The Speaker shall cause the annual report to be laid before the Legislative Assembly as soon as is reasonably practicable.

S.Nu. 2009,c.11,s.20.

Languages Commissioner

Appointment and Duties of the Languages Commissioner

16. (1) Appointment of Languages Commissioner

16. (1) The Commissioner, on the recommendation of the Legislative Assembly, shall appoint the Languages Commissioner to exercise the powers and perform the duties set out in this Act.

16. (2) Eligibility

16. (2) To be eligible for appointment as the Languages Commissioner, an individual must demonstrate an interest in and willingness to respond to

(a) the concerns, experiences and perspectives of individuals from or representatives of all three Official Language communities; and

(b) the specific historic, social and cultural contexts in which languages and linguistic rights are to be advanced under this Act.

16. (2.1) Other qualifications

16. (2.1) The Legislative Assembly may establish additional qualifications or prerequisites to be considered when appointing the Languages Commissioner.

16. (2.2) Oath of office

16. (2.2) Before undertaking the duties of office, the Languages Commissioner shall take an oath or affirmation of office in the form specified in the Legislative Assembly and Executive Council Act for independent officers of the Legislative Assembly.

16. (3) Not in public service

16. (3) The Languages Commissioner is not a member of the public service.

16. (3.1) Superannuation

16. (3.1) Despite subsection (3), the Languages Commissioner is deemed to be a member of the public service for the purposes of superannuation.

16. (4) Term of office

16. (4) Subject to section 17, the Languages Commissioner holds office during good behaviour for a term of five years.

16. (5) Continuation after expiry

16. (5) The Languages Commissioner continues to hold office after the expiry of the term until reappointed, or until a successor is appointed.

S.Nu. 2012,c.21,s.3(2); S.Nu. 2013,c.18,s.13; S.Nu. 2015,c.20,s.3(2).

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[60] It follows as well that the Languages Commissioner in the Territories could not be the “Crown” for the purposes of subsection 17(1) [of the *Federal Court Act*]. The Languages Commissioner is appointed by the Commissioner of the Territories after a resolution of the Legislative Assembly. She holds office during good behaviour for a term of four years, but may be removed by the Commissioner of the Territories on address of the Legislative Assembly. It is true that she “shall rank as and have all the powers of a Deputy Minister of a department” (see para. 53 of these reasons), but in no way can it be said that she exercises the executive power or that she is an agent of the executive power. The Languages Commissioner of the Territories is no more the “Crown” than is the Commissioner of Official Languages of Canada.

[61] At best, the Commissioner is a “board, commission or other tribunal”, which would be of no use to the Franco-ténois. On the one hand, their action is not based on section 18 of the *Federal Court Act* (this section gives the Federal Court exclusive jurisdiction over judicial review of the federal administration). On the other hand, as I said earlier (para. 48), their action could not in any event be based on section 18 since the very definition of “federal board, commission or other tribunal” in section 2 of the *Federal Court Act* excludes a board, commission or tribunal constituted under an ordinance of the Territories. Moreover, one need only consult the list of “boards, commissions or tribunals” listed in the statement of claim (see para. 3, supra) to be persuaded of the merits of this case law: who, for example, would argue that such boards as the Territories’ Highway Transport Board or Social Assistance Appeal Board are “federal boards, commissions or other tribunals” subject to judicial review by the Federal Court?

[62] Moreover, even if the Territories’ Language Commissioner was a “federal board, commission or other tribunal”, she could not be both a “federal board, commission or other tribunal” and “the Crown” (see *M.N.R. v. Creative Shoes Ltd.*, [1972] F.C. 993 (C.A.), leave to appeal refused by S.C.C., [1972] F.C. 1425) and could not therefore be a defendant in an action brought under section 17 of the *Federal Court Act*. Worse still, a declaratory judgment, under subsection 18(3) of the *Federal Court Act*, cannot be obtained against a federal board, commission or other tribunal except by an application for judicial review; but the proceeding in question, here, is an action.

[63] The trial judge therefore erred when he concluded that subsection 17(1) granted jurisdiction to the Federal Court in relation to the claim for relief made against the Speaker of the Legislative Assembly of the Territories and against the Languages Commissioner of the Territories.

[...]

[74] Furthermore, there exists in the Territories a superior court capable of ensuring the lawfulness of the actions taken by the Government of the Territories just as there are in the provinces superior courts capable of ensuring the lawfulness of the actions taken by the provincial governments. The Federal Court would betray its vocation as an “additional court for the better administration of the laws of Canada” (to paraphrase section 101 of the *Constitution Act, 1867*) if it were to be so bold as to review the implementation of the laws in the Territories. I note that in language rights matters, the Territories’ *Official Languages Act*, an ordinance that has not been disallowed by the Governor in Council, has established the office of the Languages Commissioner and expressly allowed this official to apply to the Supreme Court of the Territories in order to enforce the language rights in the Territories. Thus there exists, for the Territories, the equivalent of what exists federally, with this difference that at the federal level it is the Commissioner of Official Languages of Canada and the Federal Court of Canada that oversee compliance with Canada’s official languages policy. Here again, there is a symmetry in the administration of justice that appears to me to have been the intention of both Parliament and the Legislative Assembly of the Territories.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

17. (1) Resignation

17. (1) The Languages Commissioner may resign at any time by notifying the Speaker in writing or, if the Speaker is absent or unable to act or the office of the Speaker is vacant, by so notifying the Clerk of the Legislative Assembly.

17. (2) Removal for cause or incapacity

17. (2) The Commissioner, on the recommendation of the Legislative Assembly, may, for cause or incapacity, suspend or remove from office the Languages Commissioner.

17. (3) Suspension

17. (3) If the Legislative Assembly is not sitting, the Commissioner, on the recommendation of the Management and Services Board, may suspend the Languages Commissioner for cause or incapacity.

18. (1) Acting Languages Commissioner

18. (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint an acting Languages Commissioner if

- (a) the Languages Commissioner is temporarily unable to act because of illness or for another reason;**
- (b) the office of the Languages Commissioner becomes vacant when the Legislative Assembly is not sitting;**
- (c) the Languages Commissioner is suspended when the Legislative Assembly is not sitting; or**
- (d) the Languages Commissioner is removed or suspended, or the office of the Languages Commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under subsection 16(1) before the end of the sitting.**

18. (2) Term

18. (2) An acting Languages Commissioner holds office during good behaviour until

- (a) the Languages Commissioner returns to office after a temporary absence;
 - (b) the suspension of the Languages Commissioner ends; or
 - (c) an individual is appointed under subsection 16(1).
-

19. (1) Special Languages Commissioner

19. (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint a special Languages Commissioner to act in the place of the Languages Commissioner in respect of a particular matter if

- (a) the Languages Commissioner advises the Management and Services Board that he or she should not act in respect of that particular matter due to a conflict of interest or other reasonable cause; or
- (b) the Legislative Assembly directs, or the Nunavut Court of Justice orders, that a special Languages Commissioner should be appointed.

19. (2) Term

19. (2) A special Languages Commissioner holds office during good behaviour until the conclusion of the matter in respect of which he or she has been appointed.

20. Application to special Languages Commissioner

20. Sections 21 to 23, 25 to 34 and 36 apply in the same manner and to the same extent to a special Languages Commissioner exercising the powers and performing the duties of his or her office as to the Languages Commissioner appointed under subsection 16(1).

20.1 (1) Staff

20.1 (1) The Languages Commissioner may appoint, following a competition, such staff as are necessary for the proper conduct of the duties of the Languages Commissioner, despite the *Public Service Act*.

20.1 (1.1) Exception

20.1 (1.1) Despite subsection (1), the Languages Commissioner may appoint staff without a competition with the approval of the Management and Services Board.

20.1 (2) *Public Service Act*

20.1 (2) The staff appointed under subsection (1) are members of the public service as defined in the *Public Service Act*.

20.1 (3) Status of Languages Commissioner

20.1 (3) For all purposes relating to this section, the Languages Commissioner shall rank as and have all the powers of a deputy head under the *Public Service Act*.

S.Nu. 2015,c.20,s.3(3),(4).

21. (1) Engaging assistance

21. (1) The Languages Commissioner may engage or retain the services of counsel, experts and other persons that the Languages Commissioner considers necessary to the exercise of the powers and performance of the duties of the Languages Commissioner in all the Official Languages.

21. (2) Elders

21. (2) The Languages Commissioner may consult with or engage Elders for assistance with dispute resolution, or for the purposes relating to Inuit Qaujimajatuqangit in the exercise of the powers and performance of the duties of the Languages Commissioner that the Languages Commissioner considers appropriate.

22. (1) Duty of Languages Commissioner

22. (1) It is the duty of the Languages Commissioner to take all actions and measures within the authority of the Languages Commissioner to ensure that Official Language rights, status and privileges are recognized, and the duties respecting the Official Languages are performed.

ANNOTATIONS – SUBSECTION 22(1)

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII)

[35] Part II of the *OLA* provides for the office of the LC [Languages Commissioner], who is empowered to investigate complaints concerning official languages. Section 20(1) states that it is the LC's duty "to take all actions and measures" within his or her authority "with a view to ensuring recognition of the rights, status and privileges" of the official languages and "compliance with the spirit and intent" of the *OLA*. Section 23 requires the preparation of an annual report by the LC.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

22. (2) Specific duties

22. (2) Without limiting the generality of subsection (1), the duties of the Languages Commissioner include

- (a) investigating whether the requirements of this or any other Act, regulation, policy or procedure concerning the Official Languages have been appropriately performed, and providing reports about the results of the investigation and recommendations, if any;**
- (b) developing mediation and other methods consistent with Inuit Qaujimajatuqangit, and using these methods when appropriate to resolve concerns about the performance of legislative, policy or procedural language obligations; and**
- (c) commenting on the implementation activities and performance of territorial institutions and municipalities under this Act, and on their compliance with the spirit and intent of this Act.**

22. (3) Authorizing other duties or powers

22. (3) The Languages Commissioner shall exercise such other powers and perform such other duties as are assigned to the Languages Commissioner by this and any other Act.

22.1 (1) Inuit Qaujimajatuqangit

22.1 (1) The following general principles and concepts of Inuit Qaujimajatuqangit apply in respect of the exercise of the powers and performance of the duties of the Languages Commissioner under sections 20.1, 21, paragraph 22(2)(b), section 30 and subsections 32(1) and (3):

- (a) Inuuqatigiitsiarniq (respecting others, relationships and caring for people);**
- (b) Tunnganarniq (fostering good spirit by being open, welcoming and inclusive);**
- (c) Pijitsirniq (serving and providing for family or community, or both);**
- (d) Aajiiqatigiinni (decision-making through discussion and consensus);**
- (e) Piliriqatigiinni or Ikajuqtigiinni (working together for a common cause);**
- (f) Qanuqtuurniq (being innovative and resourceful).**

22.1 (2) Other Inuit societal values

22.1 (2) The Languages Commissioner may, in the exercise of the powers and performance of the duties of the Languages Commissioner, identify, use or incorporate other Inuit societal values that the Languages Commissioner considers to be relevant and beneficial.

23. (1) Immunity from proceedings

23. (1) No legal action or proceeding may be brought against the Languages Commissioner, or against a person acting on behalf or under the direction of the Languages Commissioner for anything, in good faith, done, omitted, caused, reported or said in the course of the exercise or purported exercise of a power or the performance or purported performance of a duty of the Languages Commissioner.

23. (2) Protection respecting libel or slander

23. (2) For the purposes of an Act or law respecting libel or slander,

(a) anything said, all information supplied and all documents and things produced in the course of an investigation, mediation or other proceeding before the Languages Commissioner are privileged to the same extent as if it were a proceeding in court; and

(b) a report made by the Languages Commissioner and a fair and accurate account of the report in news media, a periodical publication or broadcast are privileged to the same extent as if the report of the Languages Commissioner were the order of a court.

24. (1) Languages Commissioner's annual report

24. (1) The Languages Commissioner shall, within 12 months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly an annual report of the conduct of the office and the discharge of the duties of the Languages Commissioner during the preceding year, including

(a) the appointment and activities of an acting or special Languages Commissioner during the preceding fiscal year;

(b) a description of the number and type of applications and requests made under this Act and under the *Inuit Language Protection Act*, the status or resolution of the applications or requests that were active during the preceding fiscal year and information about any instances where recommendations made by the Languages Commissioner after an investigation have not been followed; and

(c) an assessment of the effectiveness of the enforcement powers exercised and duties performed by the Languages Commissioner, with any recommended changes that the Languages Commissioner considers necessary or desirable to improve compliance with this Act or the *Inuit Language Protection Act*.

24. (2) Tabling annual report

24. (2) The Speaker shall cause the annual report to be laid before the Legislative Assembly as soon as is reasonably practicable.

Northwest Territories (Attorney General) v. Fédération Franco-Ténoise, 2008 NWTCA 6 (CanLII)

[35] Part II of the *OLA* provides for the office of the LC [Languages Commissioner], who is empowered to investigate complaints concerning official languages. Section 20(1) states that it is the LC's duty "to take all actions and measures" within his or her authority "with a view to ensuring recognition of the rights, status and privileges" of the official languages and "compliance with the spirit and intent" of the *OLA*. Section 23 requires the preparation of an annual report by the LC.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

Confidentiality and Disclosure of Information

25. (1) Confidentiality

25. (1) Except as authorized or required by law, the Languages Commissioner and every person acting on behalf or under the direction of the Languages Commissioner shall maintain confidentiality and shall not disclose information received in the performance of his or her duties.

25. (2) Necessary disclosure

25. (2) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf or under the direction of the Languages Commissioner to disclose, information that the Languages Commissioner considers necessary

(a) to further an investigation; or

(b) to establish grounds for conclusions and recommendations made in a report issued in the course of the exercise of a power or the performance of a duty of the Languages Commissioner.

25. (3) Disclosure for proceedings under Act

25. (3) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf or under the direction of the Languages Commissioner to disclose, information that the Languages Commissioner or a court considers necessary in a proceeding under this Act or the *Inuit Language Protection Act*, or an appeal of such proceeding.

25. (4) Evidence not compellable

25. (4) The Languages Commissioner and any person acting on behalf or under the direction of the Languages Commissioner is not a compellable witness in respect of any information or evidence received in the performance of duties or exercise of powers under this Act, except in a proceeding under this Act or the *Inuit Language Protection Act*, or an appeal of such proceeding.

25. (5) Paramountcy

25. (5) If there is an inconsistency or conflict between this section and the *Access to Information and Protection of Privacy Act* or the regulations made under that Act, this section prevails to the extent of the inconsistency or conflict.

Rules, procedures and forms

25.1 (1) Rules, procedures and forms

25.1 (1) Subject to this Act, the Languages Commissioner shall make rules governing the procedures and forms that may be used and the manner in which the powers conferred and duties imposed by this Act will be exercised and performed.

25.1 (2) Application of Statutory Instruments Act

25.1 (2) Rules made under subsection (1) are not statutory instruments or regulations within the meaning of the *Statutory Instruments Act*.

Investigation

26. (1) Application for investigation

26. (1) A person may apply to the Languages Commissioner orally, or in another form that the Languages Commissioner considers to be satisfactory, for the investigation of concerns that, in the administration of the affairs of a territorial institution or municipality,

(a) the status of an Official Language has not been recognized;

(b) a provision of this or any other Act or regulation relating to the status, use or protection of an Official Language has not been complied with; or

(c) the spirit and intent of this Act or the *Inuit Language Protection Act* has not been fulfilled.

26. (2) Languages Commissioner may initiate

26. (2) On the Languages Commissioner's own initiative, or at the request of a territorial institution, a municipality or a member or committee of the Legislative Assembly, the Languages Commissioner may commence an investigation on the grounds for concern referred to in subsection (1).

26. (3) Investigation

26. (3) On receipt of an application or request made under this section, the Languages Commissioner shall evaluate the concerns and, subject to subsection 28(1), shall investigate.

26. (4) Combining investigations

26. (4) The Languages Commissioner may conduct a single investigation of two or more applications or requests, if he or she is satisfied that it is fair and reasonable in the circumstances to do so.

27. (1) Protection for involved persons

27. (1) No person shall discharge, suspend, expel, intimidate, coerce, evict, impose a pecuniary or other penalty on or otherwise discriminate against a person because that person applies for or requests an investigation, gives evidence or assists in an investigation, inquiry or reporting of a concern to the Languages Commissioner.

27. (2) Penalty

27. (2) Every person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction,

(a) if an individual, to a fine not exceeding \$5,000; and

(b) if a body corporate or another body with legal capacity, to a fine not exceeding \$25,000.

28. (1) Refuse or discontinue investigation

28. (1) The Languages Commissioner may refuse to investigate or may discontinue an investigation if, in the opinion of the Languages Commissioner, any of the following situations exist:

(a) the concerns identified primarily affect an individual or individuals other than the applicant or party requesting an investigation, and the directly affected individual or individuals do not wish to proceed;

(b) all or part of the concerns identified in the application or request may be dealt with and remedied, adequately and appropriately, under another Act or using another available procedure;

(c) the application or request is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(d) the applicant or party requesting an investigation has withdrawn or abandoned the application or request;

(e) the concerns identified in the application or request have been resolved.

28. (1.1) Considerations

28. (1.1) Before making a determination under subsection (1), the Languages Commissioner shall consider all relevant circumstances, including the possibility that a directly affected individual, an applicant or a party who requested the investigation may be reluctant to proceed or an application or request may have been withdrawn, abandoned or represented as having been resolved because of an abuse or imbalance of power.

28. (2) Inform affected persons

28. (2) If the Languages Commissioner refuses to investigate or discontinues an investigation under subsection (1), the Languages Commissioner shall

(a) inform the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and

(b) provide a written confirmation to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate

(i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (1), and

(ii) the date when the information required by paragraph (a) was provided.

29. (1) Notice and consultation

29. (1) If the Languages Commissioner decides to investigate, the Languages Commissioner shall,

(a) before commencing the investigation,

(i) notify the Minister, the administrative head of the territorial institution or municipality affected and any other person the Languages Commissioner considers appropriate to notify in the circumstances, and

(ii) consult with the administrative head of the territorial institution or municipality affected and with any other person the Languages Commissioner considers appropriate, to attempt to resolve the concerns raised or for any other purpose; and

(b) before making a report or recommendation that may adversely affect a person, territorial institution or municipality, consult with that person, territorial institution or municipality.

29. (2) No hearing as of right

29. (2) The Languages Commissioner is not required to hold a hearing and no person is entitled to be heard by the Languages Commissioner except as provided in this Act.

30. Non-investigative resolution

30. The Languages Commissioner may recommend or use mediation and other means consistent with Inuit Qaujimajatuqangit in attempting to resolve concerns identified in an application or request made under subsection 26(1) or (2).

31. (1) Investigation powers and procedure

31. (1) Except as provided in this section, the Languages Commissioner may, during an investigation, request and obtain information from the persons and in the manner the Languages Commissioner considers appropriate, and may take one or more of the following actions without being bound by the rules of evidence or proceedings in civil cases:

- (a) enter and inspect premises occupied by a territorial institution or municipality at any reasonable time;**
- (b) make the inquiries while in those premises that Languages Commissioner considers appropriate, including talking in private with any individual on a voluntary basis;**
- (c) request and examine information, records and objects, make or require copies or take photographs that the Languages Commissioner considers relevant to the concerns under investigation;**
- (d) accept or exclude any information or evidence as the Languages Commissioner considers appropriate, whether or not it would be admissible or excluded in a civil case.**

31. (2) Summons and disclosure

31. (2) Subject to giving reasonable notice, the Languages Commissioner may in the course of an investigation

- (a) summon and enforce the appearance of a person as a witness;**
- (b) administer oaths and affirmations;**
- (c) compel a person to give evidence on oath or affirmation, including by way of an affidavit, at a time and place the Languages Commissioner specifies; and**
- (d) compel a person to produce documents and things in the person's possession or control that the Languages Commissioner considers relevant to the concerns under investigation, at a time and place the Languages Commissioner specifies.**

31. (3) Other powers

31. (3) In exercising the powers under subsections (1) and (2), the Languages Commissioner has the same powers and duties as are vested in a court of law in civil cases.

31. (4) Limitation

31. (4) The exercise of the Languages Commissioner's powers under this section is limited by and shall conform to

(a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and

(b) the independence, duties, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

31. (5) Protocol

31. (5) The Languages Commissioner shall establish and adhere to a protocol with the Speaker of the Legislative Assembly on behalf of the Legislative Assembly and its members, and with the Nunavut Court of Justice and the Court of Appeal, regarding the Languages Commissioner's exercise of powers and performance of duties under this section.

32. (1) Procedure after investigation

32. (1) If, after carrying out an investigation, the Languages Commissioner is of the opinion that a matter should be referred to a territorial institution or municipality for consideration or action, the Languages Commissioner shall prepare and submit a report of that opinion and the reasons for it to the administrative head of the territorial institution or municipality in question.

32. (2) Copy to Premier and Minister

32. (2) If the territorial institution referred to in subsection (1) is a department of the Government of Nunavut or a public agency, the Languages Commissioner shall submit a copy of his or her report and reasons to the Premier and to the Minister responsible for the department or public agency.

32. (3) Report and reply

32. (3) In a report under subsection (1), the Languages Commissioner may make the recommendations that he or she considers appropriate, and may request that the administrative head of the territorial institution or municipality in question reply to the recommendations of the Languages Commissioner within a specified time indicating

(a) the action that has been or is proposed to be taken to give effect to the recommendations; and

(b) if no action has been or is proposed to be taken, the reasons for not following that recommendation.

32.1 (1) Investigation report to Legislative Assembly

32.1 (1) If no action is taken that the Languages Commissioner considers adequate or appropriate within a reasonable time after a report is submitted under subsection 32(1) or (2), the Languages Commissioner may prepare and submit an investigation report to the Speaker of the Legislative Assembly.

32.1 (2) Tabling investigation report

32.1 (2) The Speaker shall cause the investigation report to be laid before the Legislative Assembly as soon as is reasonably practicable.

33. Inform affected persons

33. The Languages Commissioner shall in every case

(a) at a time and in a manner that the Languages Commissioner considers appropriate and consistent with section 25, inform the applicant or party who requested the investigation, and such other affected persons as the Languages Commissioner considers appropriate, of the result of the investigation, the recommendations made and the actions taken or proposed; and

(b) confirm in writing to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate

(i) that the Languages Commissioner has concluded the investigation, and

(ii) the date when the information required by paragraph (a) was provided.

34. (1) Reports and information final

34. (1) Reports and information provided by the Languages Commissioner under this Act are not subject to appeal or to review by a court.

34. (2) Use of reports

34. (2) Despite subsection (1), if an application is filed under subsection 35(1) or paragraph 36(1)(a), a report purported to be provided by the Languages Commissioner under this Act is admissible in evidence as proof, in the absence of evidence to the contrary, of the contents of the report and that the Languages Commissioner provided the report.

Enforcement in the Nunavut Court of Justice

35. (1) Enforcement application

35. (1) An application may be made to the Nunavut Court of Justice for a remedy that the Court considers appropriate and just in the circumstances by a person who has applied to the Languages Commissioner under subsection 26(1), by a territorial institution, a municipality or member or committee of the Legislative Assembly that has requested the investigation under subsection 26(2) or by an individual directly affected by an application or request made under subsection 26(1) or (2), if

(a) the Language Commissioner has refused or discontinued an investigation under subsection 28(1);

(b) the Languages Commissioner has informed the applicant or party who requested the investigation of the results of the investigation as required by paragraph 33(a); or

(c) more than six months have passed since the day the application or request was made and the applicant or party who requested the investigation has not been informed that the investigation has been refused or discontinued or of any results of the investigation.

35. (2) Limitation period

35. (2) Subject to subsection (3), an application may not be made under subsection (1)

(a) more than six months after the day on which the applicant or party who requested the investigation

(i) is informed, under subsection 28(2), of the Languages Commissioner's decision to refuse or discontinue an investigation; or

(ii) is informed of the results of investigation as required by paragraph 33(a); or

(b) more than one year after the date of the initial application or request made under subsection 26(1) or (2), if the applicant or party who requested the investigation has not received the information referred to in paragraph (a) after the expiry of six months.

35. (3) Filing after time expired

35. (3) The Nunavut Court of Justice may accept an application filed after the expiration of the time limits referred to in subsection (2) if the Court determines that

(a) the delay in filing was incurred in good faith; and

(b) the refusal to waive a time limit would result in a greater adverse impact on the applicant, as compared to the prejudice, if any, experienced by any other person as the result of the delay.

35. (4) Other rights of action

35. (4) Nothing in this section abrogates or derogates from any right of action a person might have other than the right of action set out in this section.

36. (1) Languages Commissioner may apply or appear

36. (1) The Languages Commissioner may

(a) apply to the Nunavut Court of Justice for a remedy within the time limits established by paragraph 35(2)(a) only after

(i) submitting the report under subsection 32.1(1), and

(ii) obtaining, in writing, the consent of an applicant or party who requested the related investigation;

(b) appear before the Nunavut Court of Justice on behalf of a person who has applied under subsection 35(1) for a remedy; or

(c) with leave of the Nunavut Court of Justice, appear as a party to a proceeding under subsection 35(1).

36. (2) Applicant may appear

36. (2) If the Languages Commissioner makes an application under paragraph (1)(a), an applicant or party who requested the investigation may appear as a party in the proceedings.

36. (3) Capacity to intervene

36. (3) Nothing in this section affects the capacity of the Languages Commissioner to seek leave to intervene in any legal proceedings relating to the status or use of the Inuit Language, English or French.

ANNOTATIONS

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[74] Furthermore, there exists in the Territories a superior court capable of ensuring the lawfulness of the actions taken by the Government of the Territories just as there are in the provinces superior courts capable of ensuring the lawfulness of the actions taken by the provincial governments. The Federal Court would betray its vocation as an “additional court for the better administration of the laws of Canada” (to paraphrase section 101 of the *Constitution Act, 1867*) if it were to be so bold as to review the implementation of the laws in the Territories. I note that in language rights matters, the Territories’ *Official Languages Act*, an ordinance that has not been disallowed by the Governor in Council, has established the office of the Languages Commissioner and expressly allowed this official to apply to the Supreme Court of the Territories in order to enforce the language rights in the Territories. Thus there exists, for the Territories, the equivalent of what exists federally, with this difference that at the federal level it is the Commissioner of Official Languages of Canada and the Federal Court of Canada that oversee compliance with Canada’s official languages policy. Here again, there is a symmetry in the administration of justice that appears to me to have been the intention of both Parliament and the Legislative Assembly of the Territories.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

Review of Act

37. (1) Review after five years

37. (1) After every five years of operation, commencing with a first review in the year following September 18, 2014, or such earlier time after this Act comes into force as the Legislative Assembly may direct, the Legislative Assembly or a committee of the Legislative Assembly shall review the provisions and operation of this Act, and such other legislation, policies, guidelines, plans or directives as the Legislative Assembly or committee of the Legislative Assembly may direct.

37. (2) Scope of review

37. (2) The review shall include an examination of the administration and implementation of this Act, the effectiveness of its provisions and the achievement of its objectives and may include recommendations for changes to this Act.

S.Nu. 2009,c.11,s.23.

Regulations and Consultation

38. (1) Regulations

38. (1) The Commissioner in Executive Council, on being satisfied that the requirements of Article 32 of the *Nunavut Land Claims Agreement* have been fulfilled and that appropriate consultation has occurred with representatives of the English and French language communities, may make regulations

(a) designating the administrative head of a public agency referred to in the definition "administrative head" in section 1;

(b) excluding a public agency under section 1, where the public agency is established for purposes relating primarily to the heritage, cultural expression, strengthening or promotion of a single language or language community;

(c) respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act, including regulations respecting the giving of notice, that the Commissioner in Executive Council considers necessary to implement or effect compliance with sections 8, 9, 11 and 12

(i) by one or more judicial or quasi-judicial bodies, other than the Nunavut Court of Justice and Court of Appeal, or

(ii) in one or more types or forms of proceeding or decision;

(d) respecting any aspect, measure, method or requirement applicable to a department of the Government of Nunavut or public agency that the Commissioner in Executive Council considers necessary to implement or effect compliance with subsection 11(1), concerning

(i) the display or format of signage, or

(ii) the making, issuing or format of instruments;

(e) identifying the territorial institutions and offices referred to in subsections 12(3) to (5), including by a group or class of office or service;

(f) respecting evidence or criteria to be considered when assessing significant demand for the purposes of subsection 12(3);

(g) respecting any aspect, measure, method or requirement, including matters relating to the requirement for an active offer of services, that the Commissioner in Executive Council considers necessary to coordinate, implement or effect compliance on the part of an administrative head with section 12(7);

ANNOTATIONS – SUBSECTION 38(1)(G)

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII)

[143] We disagree with the trial judge's conclusion on this point. The notion of active offer was not overlooked in the *OLA* [Northwest Territories *Official Languages Act*]. Section 34(e) provides that the Commissioner may make regulations respecting active offer. The GNWT [Government of the Northwest Territories] did not enact regulations. Rather, it developed the PGs [Policy and Guidelines] (discussed in detail beginning at para. 166), which provide for active offer in specified government offices. This distinguishes the *OLA* from the *OLAC* [Official Languages Act of Canada] and the *OLANB* [New Brunswick *Official Languages Act*]. Enactments on the same topic from other jurisdictions "form part of the legal context in which statutes are enacted and operate": Ruth Sullivan, *Sullivan and Driedger on the Construction of Statutes*, 4th ed., (Markham: Butterworths Canada Ltd., 2002) at 331 ("*Sullivan*"). "When statutes that are otherwise similar use different words or adopt a different approach, this suggests a different meaning was intended": *Ibid.*; also, see *Morguard Properties Ltd. v. Winnipeg (City)*, 1983 CanLII 33 (SCC), [1983] 2 S.C.R. 493 at 504-505, 25 Man. R. (2d) 302; and *Reference Re Canada Labour Code*, 1992 CanLII 54 (SCC), [1992] 2 S.C.R. 50 at 106, 91 D.L.R. (4th) 449. These principles and s. 34(e) of the *OLA* suggest that it was not the legislature's intention to make active offer a fundamental part of s. 11(1).

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force

on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

(h) identifying a municipality referred to in subsection 12(8) or setting out the evidence or criteria to be considered in determining whether subsection 12(8) applies to a municipality;

(h.1) respecting the municipal communications and services to be provided when subsection 12(8) applies to a municipality;

(h.2) respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act, that the Commissioner in Executive Council considers necessary to implement or effect compliance with subsection 12(8);

(i) respecting any matter the Commissioner in Executive Council considers necessary to implement or effect compliance with this Act under section 13, including additional matters to be addressed in the implementation plans referred to in subsection 13(3) or the implementation plans and information referred to in subsection 13(4);

(i.1) governing disbursements from the Official Languages Promotion Fund, including establishing advisory committees and providing for their advisory and governance functions;

(i.2) prescribing information and records for the purposes of subsection 13.1(2);

(j) respecting the establishment and maintenance of a register of persons or organizations under section 39; and

(k) respecting any matter the Commissioner in Executive Council considers necessary to carry out the purposes and provisions of this Act.

ANNOTATIONS – SUBSECTION 38(1)

[Northwest Territories \(Attorney General\) v. Fédération Franco-Ténoise](#), 2008 NWTCA 6 (CanLII)

[176] In contrast, s. 34 of the OLA [Northwest Territories *Official Languages Act*] states that the Commissioner “may make regulations” *inter alia* designating government institutions, respecting active offers, and respecting any other matter necessary for carrying out the OLA.

[...]

[179] We appreciate that this situation was created by the GNWT’s [Government of the Northwest Territories] past failure to pass regulations. We nevertheless conclude that the trial judge erred in relying on the PGs [Policy and Guidelines] to assess whether the specific breaches were made out. If the PGs do not have the force of law, a failure to comply with them cannot be the basis of an award of damages. Since the trial, the GNWT has passed some regulations under the OLA, namely *Aboriginal Languages Revitalization Board Regulations*, N.W.T. Reg. 050-2004; *Official Languages Board Regulations*, N.W.T. Reg. 049-2004, and notably, the *Government Institution Regulations* discussed at para. 108. The absence of regulations concerning institutions at the time when certain specific complaints arose creates a difficulty in this case in assessing some of

those complaints. Our view about the non-binding nature of the PGs requires us to revisit the trial judge's determinations about s. 11(1) breaches.

N.B. – Although this judgment interprets the Northwest Territories *Official Languages Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation. At the time of this judgment, the *Official Languages Act* in force in Nunavut was the one duplicated from the Northwest Territories. That Act has now been repealed and replaced by a new *Official Languages Act* enacted in Nunavut, most of which came into force on April 1st, 2013. The relevant wording of the new Nunavut *Official Languages Act* remains similar to that of the Northwest Territories *Official Languages Act*.

38. (2) Independence affirmed

38. (2) This section does not empower the Commissioner in Executive Council to make regulations respecting the Legislative Assembly, the Nunavut Court of Justice or the Court of Appeal.

38. (3) Other prerequisites

38. (3) At least four months before a regulation is made by the Commissioner in Executive Council under subsection (1),

(a) the proposed regulation shall be published in the Nunavut Gazette, together with an Inuit Language translation and information about the manner in which interested persons may comment on the proposed regulation;

(b) a notice of the proposed regulation, stating where a copy of it and an Inuit Language translation of it may be obtained and information about the manner in which interested persons may comment on the proposed regulation, shall be published in at least one newspaper of general circulation in Nunavut; and

(c) the Minister shall notify the Speaker and Nunavut Tunngavik Incorporated, as well as the representatives of the English and French language communities, if any, that a proposed regulation has been published as required by paragraph (a).

38. (4) Report on development process

38. (4) To support the determination required in subsection (1), the Minister shall provide a report to the Commissioner in Executive Council, summarizing the measures undertaken to request and obtain public or other input about the regulation, the Minister's manner of compliance with Article 32 of the *Nunavut Land Claims Agreement* and whether or in what manner the regulation proposed responds to the issues raised during consultation about the regulation and under this section.

38. (5) Report on the proposed regulation

38. (5) The Minister shall submit the report referred to in subsection (4) to the Speaker of the Legislative Assembly.

38. (6) Tabling report

38. (6) The Speaker shall cause the report to be laid before the Legislative Assembly as soon as is reasonably practicable.

S.Nu. 2009,c.11,s.24.

39. (1) Consultation register

39. (1) The Minister shall establish and maintain, in accordance with the regulations, a register of persons or organizations to be consulted in relation to

(a) section 38; or

(b) consultation or collaborative work required for any other purpose by this Act.

39. (2) Use of register

39. (2) The Minister shall consult with every person or organization duly entered in the register for the purposes prescribed by the regulations.

39. (3) Public access

39. (3) A person may inspect the register by attending at the prescribed office during regular government business hours, and requesting that the register be produced for inspection.

Transitional

40. Agreements

40. Agreements made on behalf of the Government of Nunavut and in force on the day this Act comes into force respecting the funding or delivery of programs or services or other matters relating to the implementation of language obligations, shall continue in force according to their terms, and the Government of Nunavut shall have all the same rights, obligations and liabilities in the same manner and to the same extent as existed immediately before this Act came into force.

41. (1) Languages Commissioner

41. (1) The individual holding office as Languages Commissioner on the day this Act comes into force shall continue to hold that office as if appointed under subsection 16(1), but with an initial term of office expiring on the day that his or her prior appointment as Languages Commissioner would have expired.

41. (2) Property, rights, obligations

41. (2) Except as otherwise stated in this Act, the Languages Commissioner shall have all the property, rights, obligations and liabilities of the Languages Commissioner as they existed immediately before this Act came into force.

42. Proceedings in progress

42. Proceedings in which the Languages Commissioner is a party when this Act comes into force may be continued by or against the Languages Commissioner in the same manner and to the same extent as could have been done by or against the Languages Commissioner immediately before this Act came into force.

[...]

48. Repeal

48. The *Official Languages Act*, R.S.N.W.T. 1988, c.O-1, as duplicated for Nunavut by section 29 of the *Nunavut Act (Canada)*, is repealed.

Commencement

49. Coming into force

49. This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner.

[Inuit Language Protection Act, S.Nu. 2008, c. 17](#)

N.B. – Unofficial consolidation, also available in inuktitut.

Preamble

Honouring as wise guardians, the Inuit Elders and the other Inuit Language speakers and educators who have sustained and developed the Inuit Language from time immemorial, and have imparted the knowledge and appreciation of the Inuit Language, cultural and oral traditions that characterize Inuit as a people, to this day;

Considering the importance of the Inuit Language

(a) as a cultural inheritance and ongoing expression of Inuit identity both in Nunavut communities and in the wider circumpolar world,

(b) as the fundamental medium of personal and cultural expression through which Inuit knowledge, values, history, tradition and identity are transmitted,

(c) to the development of the dynamic and strong individuals, communities and institutions in Nunavut that are required to advance the reconciliation contemplated by the *Nunavut Land Claims Agreement*,

(d) to support the meaningful engagement of Inuit Language speakers in all levels of governance and in socio-economic development in Nunavut, and

(e) as a foundation necessary to a sustainable future for the Inuit of Nunavut as a people of distinct cultural and linguistic identity within Canada;

Deploping the past government actions and policies of assimilation and the existence of government and societal attitudes that cast the Inuit Language and culture as inferior and unequal, and acknowledging that these actions, policies and attitudes have had a persistent negative and destructive impact on the Inuit Language and on Inuit;

Determined to respond to the pressures confronting the Inuit Language by ensuring that the quality and prevalent use of the Inuit Language are protected and promoted, and the Inuit Language is affirmed as

(a) a language of education, in a system that in both its design and effect strives to equip Inuit children to enter adult life as world citizens having a rich knowledge of the Inuit Language and full ability to participate in the day-to-day life, development and cultural vibrancy of their communities and homeland,

(b) a language of work in territorial institutions, and a necessary element in

(i) the development of a representative and appropriate public service environment in Nunavut, and

(ii) the full and representative participation of the Inuit of Nunavut in the economic opportunities and development of Nunavut, and

(c) a language used daily in services and communication with the public throughout all sectors of Nunavut society;

Emphasizing that the effective teaching and transmission of the Inuit language, especially during early childhood and in communities or age groups for which there are special concerns about language loss or assimilation, are now critical,

(a) for improved Inuit educational achievement generally, and

(b) for Inuit Language protection, promotion and revitalization in Nunavut;

Observing that territorial institutions have an obligation under Article 32 of the *Nunavut Land Claims Agreement* to design and deliver programs and services that are responsive to the linguistic goals and objectives of Inuit, and that Nunavut and Canada are the government parties obliged to implement and give effect to the land claim rights of Inuit;

Affirming the Speaker's jurisdiction over the privileges and traditions of the Legislative Assembly and the independence of the courts of Nunavut to regulate their own processes consistent with the interests of justice in individual cases;

Affirming that the Inuit of Nunavut have an inherent right to the use of the Inuit Language, and that positive action is necessary to protect and promote the Inuit Language and Inuit cultural expression, and is consistent with Canada's international undertakings, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions, proclaimed by the United Nations;

Observing that the fulfillment of these linguistic rights is inseparable from the equality and human dignity of Inuit, and from the promotion of Inuit self-reliance and cultural, social and economic well-being as contemplated by the *Nunavut Land Claims Agreement*;

Observing that positive action is necessary to ameliorate conditions of disadvantage and address systemic discrimination faced by those for whom the Inuit Language is a first, only or preferred language;

Affirming the commitment of the Government of Nunavut to uphold its obligations as a public government, including its obligations toward Francophones and Anglophones under the *Official Languages Act of Nunavut* and other laws protecting and promoting language rights and the right to equality and non-discrimination;

Determined, in return, to advocate for and to achieve the national recognition and constitutional entrenchment of the Inuit Language as a founding and official language of Canada within Nunavut; and

Understanding, because of the fundamental character of the values expressed and the important objectives of this Act, and on legal authority including sections 15, 25 to 27 and 35 of the *Constitution Act, 1982*, that the Inuit Language Protection Act shall enjoy quasi-constitutional status in law;

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

ANNOTATIONS

[Nunavut \(Minister of the Environment\) v. WSCC](#), 2013 NUCJ 11 (CanLII)

[23] Laws may be constitutional, quasi-constitutional, or of general application. The paramountcy of legislation may be determined by reference to, amongst other things, its characterization as constitutional, quasi-constitutional, or of general application. Each type or level of legislation is subject to somewhat different rules of interpretation.

[24] Quasi-constitutional legislation is paramount to laws of general application. Any exemption to the application of quasi-constitutional legislation must be explicit and narrowly interpreted.

[25] Quasi-constitutional legislation is identified by canvassing the jurisprudence or by reading the legislation in question. Some legislation, such as human rights legislation, has long been identified by the courts as being quasi-constitutional in nature. On occasion, the legislation in question may state that it is quasi-constitutional in nature. Such is the case with the *Official Languages Act*, R.S.N.W.T. 1988, c. O-1, as duplicated for Nunavut by s.29 of the *Nunavut Act*, S.C. 1993, c.28, and the *Inuit Language Protection Act*, S.Nu. 2008, c.17.

Interpretation

1. (1) Definitions

1. (1) In this Act,

"administrative head" means

- (a) in relation to a department of the Government of Nunavut, its deputy minister,
- (b) in relation to a municipality, the senior administrative officer, and
- (c) in relation to a public agency, the chief executive officer or, if there is no chief executive officer, such individual as the Minister may designate in the regulations as administrative head for the purposes of this Act; (*responsable administratif*)

"education program" means education program as defined in subsection 1(1) of the *Education Act*; (*programme d'enseignement*)

"employee" means employee as defined in the Public Service Act; (*fonctionnaire ou employé*)

"Inuit Uqausinginnik Taiguusiliuqtiit" means the Inuit Language authority established by section 15; (*Inuit Uqausinginnik Taiguusiliuqtiit*)

"Languages Commissioner" means the Languages Commissioner appointed under subsection 16(1) of the *Official Languages Act*; (*commissaire aux langues*)

"Management and Services Board" means the Management and Services Board established by the *Legislative Assembly and Executive Council Act*; (*Bureau de régie et des services*)

"Minister" means the Minister of Languages referred to in subsection 24(1), unless a contrary intention appears; (*ministre*)

"organization" means a public sector body, municipality or private sector body; (*organisation*)

"orthography" means the syllabic or roman orthography writing systems used by Inuit Language speakers in Nunavut; (*orthographe*)

"private sector body" means, except as otherwise stated in or prescribed in accordance with this Act, a corporation, partnership, sole-proprietorship, society, association, cooperative, union or other non-government entity operating in Nunavut; (*organisme du secteur privé*)

"public agency" means, unless otherwise provided by regulation, a body that is

- (a) established by the laws of Nunavut,
- (b) subject to the direction of a Minister or the Executive Council, and
- (c) identified as a public agency under subsection 1(1) of the *Financial Administration Act*; (*organisme public*)

"public sector body" means a department of the Government of Nunavut or public agency, or a federal department, agency or institution; (*organisme du secteur public*)

"special Languages Commissioner" means a special Languages Commissioner appointed under subsection 19(1) of the *Official Languages Act*; (*commissaire aux langues spécial*)

"territorial institution" means

- (a) the Government of Nunavut,**
- (b) a judicial or quasi-judicial body,**
- (c) the Legislative Assembly, and**
- (d) a public agency; (*institution territoriale*)**

"undue hardship" means excessive hardship as determined by evaluating the adverse consequences of a provision in this Act, by reference to such factors as

- (a) health and safety,**
- (b) any significant impairment of important objectives, functions or activities of a private sector body,**
- (c) an adverse impact on contractual obligations, and**
- (d) the size, efficiency or viability of a private sector body. (*contrainte excessive*)**

1. (2) Inuit Language

1. (2) Except as directed by the Inuit Uqausinginnik Taiguusiliuqtiit under paragraph 16(5)(b), "Inuit Language" means,

- (a) in or near Kugluktuk, Cambridge Bay, Bathurst Inlet and Umingmaktuuq, Inuinnaqtun;**
- (b) in or near other municipalities, Inuktitut; and**
- (c) both Inuinnaqtun and Inuktitut as the Commissioner in Executive Council may, by regulation, require or authorize.**

1. (3) Inuinnaqtun

1. (3) In its application to Inuinnaqtun, this Act shall be interpreted and implemented in a manner that is consistent with the need to give priority to

- (a) the revitalization of Inuinnaqtun; and**
- (b) improved access to communication, services, instruction and Inuit Language programs in Inuinnaqtun, under sections 3 to 10, in the communities where Inuinnaqtun is indigenous.**

S.Nu. 2008,c.17,s.48.1,50(2),(3),(4),(5),(6); S.Nu. 2009,c.11,c.2.

2. (1) Constitutional rights, including aboriginal rights, paramount

2. (1) Nothing in this Act shall be construed so as to abrogate or derogate from

(a) the status of or any constitutional or other rights in respect of the English or French languages;

(b) any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982* including but not limited to,

(i) the objectives, rights and obligations affirmed in the *Nunavut Land Claims Agreement*, and

(ii) any responsibility for implementation that is required to give effect to the *Nunavut Land Claims Agreement*;

(c) any legal or customary right or privilege acquired or enjoyed with respect to the Inuit Language, either before or after the coming into force of this Act; or

(d) any responsibility of the Parliament and Crown of Canada concerning the linguistic or cultural rights or heritage of Inuit or other linguistic minorities in Nunavut.

2. (2) Status of Inuit Language rights

2. (2) If a provision of sections 3 to 13 is inconsistent with or in conflict with a provision of an Act other than the *Human Rights Act*, the provision of this Act prevails except as otherwise stated.

2. (3) Validity not affected

2. (3) Except as provided in subsection (2), nothing in this Act shall be construed as affecting the validity or legal effect of a communication with or service to the public, or of any document or action or procedure, to which this Act applies.

2. (4) Act not a limit

2. (4) Nothing in this Act shall be construed so as to prohibit the offer or delivery of services in the Inuit Language or communications in the Inuit Language that exceed the requirements of this Act and the regulations.

Part 1 – Inuit Language Rights and Duties

Inuit Language Services and Use

3. (1) Duties of every organization

3. (1) Every organization shall, in accordance with this section and the regulations, if any,

- (a) display its public signs, including emergency and exit signs, in the Inuit Language together with any other language used;
- (b) display and issue its posters and commercial advertising, if any, in the Inuit Language together with any other language used;
- (c) ensure that the Inuit Language text of its public signs, posters and commercial advertising is at least equally prominent with any other language used; and
- (d) provide, in the Inuit Language, its reception services and any customer or client services that are available to the general public.

3. (2) Particular services to be delivered in the Inuit Language

3. (2) An organization shall communicate with the public in the Inuit Language when delivering the following particular services:

- (a) essential services, including
 - (i) emergency, rescue or similarly urgent services or interventions, including intake or dispatch services, and
 - (ii) health, medical and pharmaceutical services;
- (b) household, residential or hospitality services, including
 - (i) restaurant, hotel, lodging, residential or housing services, and
 - (ii) basic services to a household, including the supply of electricity, fuel, water and telecommunications;
- (c) the other prescribed services that the Commissioner in Executive Council considers to be appropriate as the result of their essential nature or important consequences for individuals.

3. (3) Communications

3. (3) In addition to the requirements under subsection (1), the communications with the public referred to in subsection (2) are the following:

- (a) all notices, warnings or instructions directed to users or consumers of the service;
- (b) monthly bills, invoices and similar demands directed to persons who may be Inuit Language speakers;
- (c) the other communications that the Commissioner in Executive Council may prescribe.

3. (4) Oral and written communications

3. (4) Subsection (3) applies to both oral and written communications.

3. (5) Accommodation for private sector body

3. (5) The Languages Commissioner, after receiving a submission or an application under Part 4, and the Nunavut Court of Justice, after receiving an application under Part 4, may relieve a private sector body of an obligation that would otherwise be required under this section and substitute a less onerous requirement for communication or services in the Inuit Language, if

(a) the private sector body is established for purposes relating primarily to the heritage, expression, strengthening or promotion of a non-Inuit linguistic or cultural community; or

(b) satisfied that compliance with this section on the part of the private sector body would otherwise result in undue hardship.

4. (1) Government contracts

4. (1) Every contract issued or made by or on behalf of a department of the Government of Nunavut or a public agency, whether as a result of a request for proposals, tender or otherwise, shall require the third party communications with and services to the public in the Inuit Language that are necessary to ensure compliance with section 3.

4. (2) Transitional

4. (2) This section does not apply to a request for proposals or tender not yet awarded or to contracts in force on the day that this section comes into force.

4. (3) Exemption by order

4. (3) The Executive Council may, by order, exempt a contract from the operation of this section, if it considers that

(a) the contract is for goods or services that are urgently required to assess or respond in a timely and appropriate manner to circumstances that involve a risk of harm to persons or property, or other emergency; or

(b) unusual, urgent or compelling circumstances require that the contract be issued otherwise than in accordance with the obligations set out in this section.

5. Service of civil claim

5. In a civil claim, the Nunavut Court of Justice may

(a) include in its rules or directions about notice or service, a requirement that the Notice to Defendant or other document before the Court be provided to an individual who may be an Inuit Language speaker with an Inuit Language translation; and

(b) on return of the matter following service, request evidence relevant to the language preference or understanding demonstrated by the individual served.

Municipal Communications and Services

6. Additional communications with and services to the public

6. Every municipality shall make available to the public, regardless of the volume or level of demand, if any, the following additional communications and services in the Inuit Language:

- (a) street signs, traffic signs and any maps that may be produced or procured by the municipality;**
 - (b) activities or services delivered by the municipality relating to the social welfare of individuals or the community;**
 - (c) municipal notices to the public, by-law enforcement and ticketing;**
 - (d) interpretation at public meetings and municipal council meetings;**
 - (e) the other prescribed communications or services that the Commissioner in Executive Council considers to be essential as the result of their nature or consequences for individuals, for a community or for Nunavut as a whole.**
-

7. Government of Nunavut translation requirement

7. Documents, including notices or guidelines, directed to a municipality by the Government of Nunavut for public circulation, review or comment at the municipal level, shall be provided with Inuit Language translations.

Education

8. (1) Inuit Language instruction

8. (1) Every parent whose child is enrolled in the education program in Nunavut, including a child for whom an individual student support plan exists or is being developed, has the right to have his or her child receive Inuit Language instruction.

8. (2) Duties concerning education program

8. (2) The Government of Nunavut shall, in a manner that is consistent with Inuit Qaujimajatuqangit,

- (a) design and enable the education program to produce secondary school graduates fully proficient in the Inuit Language, in both its spoken and written forms;**
- (b) develop and implement appropriate Inuit Language competency targets necessary for the achievement of full proficiency**
 - (i) for all stages of learning within the education program, consistent with paragraph (a), and**
 - (ii) for an individual student support plan, consistent with the adjustments and supports provided for by the plan;**
- (c) develop and use measures of assessment, and maintain records concerning individual attainment and education program outcomes overall, in relation to the competency targets established under subparagraph (b)(i); and**
- (d) develop and provide**
 - (i) curriculum, classroom materials and programs in the Inuit Language required to implement this section, and**
 - (ii) the training, certification and professional development for educators and others, including Inuit Language training and upgrading, that are necessary to produce the number, type and quality of educators required to implement this section.**

S.Nu. 2009,c.11,s.3.

9. Early childhood education

9. To address the preschool stage of learning, consistent with the significance of this developmental stage for language acquisition and revitalization, the Government of Nunavut shall promote early childhood Inuit Language development and learning involving children and their parents at the community level, and shall

- (a) develop and provide early childhood education materials and programs in the Inuit Language;**
- (b) monitor the availability, use and outcomes of the materials and programs referred to in paragraph (a); and**
- (c) develop and implement the licensing standards, training, certification and professional development for child day care operators and staff under the Child Day Care Act, or other early childhood education providers, that are required to implement this section.**

S.Nu. 2009,c.11,s.4

10. Adult language acquisition and upgrading

10. The Government of Nunavut shall develop and provide Inuit Language acquisition and upgrading materials and programs designed for adults who wish to learn or improve their proficiency in the Inuit Language both in community learning environments and through post-secondary education.

Public Service

11. "Active offer" defined

11. In section 12, "active offer" means a clear explanation in the Inuit Language of an individual's right to use the Inuit Language during recruitment or employment, delivered in a manner that is culturally appropriate and non-coercive.

12. (1) Language of work

12. (1) The Inuit Language is a language of work in territorial institutions, and every employee of a territorial institution has the right to use the Inuit Language at work to the extent and in the manner provided in this Act and the regulations.

12. (2) Duties of territorial institution as employer

12. (2) Every territorial institution shall

(a) identify and implement measures to eliminate any barriers faced by individuals who prefer to speak the Inuit Language during recruitment or in the workplace;

(b) identify and implement measures to increase the use of the Inuit Language as a working language of the institution;

(c) in recruitment, ensure

(i) that the job description includes a statement of the justified occupational requirements of the position relating to language, if any, and

(ii) that applicants' assessed level of competence in the Inuit Language is a criteria that receives value in the assessment of his or her overall qualifications for the position;

(d) except when skills in a language other than the Inuit Language are a justified occupational requirement of the position, make an active offer advising applicants that they may

(i) submit an application entirely in the Inuit Language, and

(ii) if selected for an interview, to have the job interview entirely in the Inuit Language;

(e) determine through an active offer made at the commencement of employment, whether the new employee prefers the Inuit Language as his or her language of work;

(f) if the Inuit Language is an employee's preferred language of work,

(i) ensure that management is able to communicate with and supervise the employee in the Inuit Language,

(ii) provide any performance appraisals in the Inuit Language,

(iii) promote Inuit Language networks, mentoring or other innovative means of facilitating the use and strength of the Inuit Language among those preferring to use the Inuit Language at work, and

(iv) accept grievances filed in the Inuit Language; and

(g) whether or not the Inuit Language is an employee's preferred language of work,

(i) offer Inuit Language training, upgrading and assessment of employees competence in the Inuit Language,

(ii) ensure that employees seeking this training or upgrading are not prevented from registering or attending by routine duties of work, and

(iii) maintain records concerning the individual attainment and overall outcomes from the training and upgrading provided to employees.

12. (3) Other duties of territorial institution

12. (3) To facilitate the use of the Inuit Language in the workplace, every territorial institution shall

(a) ensure that the management of the institution has, collectively, the capacity to function in the Inuit Language;

(b) issue or display internal communication directed to its employees, collectively, in the Inuit Language in addition to any other languages used;

(c) promote the use of the Inuit Language in workplace communication generally, including interdepartmental and interagency communication; and

(d) acquire, when available, information technology systems that are appropriate to support the use of the Inuit Language.

12. (4) Duties of the Government of Nunavut

12. (4) To facilitate the use of the Inuit Language in the workplace, every department of the Government of Nunavut and public agency shall

(a) deleted, 2nd Legislative Assembly, September 10, 2008;

(b) in consultation with the Inuit Uqausinginnik Taiguusiliuqtiit as provided under paragraph 16(2)(d), develop the Inuit Language terminology and expressions required for the internal and external communications and functions of the department or public agency;

(c) if the Inuit Uqausinginnik Taiguusiliuqtiit has issued a direction under paragraph 16(5)(b),

(i) use the standard Inuit Language as directed,

(ii) within a reasonable time, update the workplace and operational handbooks, manuals and similar tools used by employees in compliance with the direction, and

(iii) publish and facilitate the use of the standard Inuit Language terminology and expressions by employees and others.

12. (5) Protection for Inuit Language speakers

12. (5) No territorial institution shall discharge, suspend, expel, reprimand, intimidate, harass, coerce, evict, transfer, impose a pecuniary or other penalty on or otherwise discriminate against an employee only because the employee is a unilingual speaker of the Inuit Language or prefers to speak or use the Inuit Language.

12. (6) Justified occupational requirement

12. (6) Subsection (5) does not apply with respect to a discharge, suspension, reprimand or other disciplinary action, taken reasonably, in connection with a justified occupational requirement of the employee's position relating to language.

12.1. Application to Office of the Legislative Assembly

12.1. The application of subsections 12(1) to (3), or any regulation made in relation to those subsections, may be suspended or varied as they apply to the Office of the Legislative Assembly or to an independent officer of the Legislative Assembly,

(a) by regulation, made by the Speaker on the recommendation of the Management and Services Board; or

(b) by resolution of the Management and Services Board.

13. *Official Languages Act* paramount

13. If there is an inconsistency or conflict between section 12, or a right exercisable under section 12, and the *Official Languages Act*, the regulations made under that Act or a right exercisable under that Act, the *Official Languages Act* and the regulations made and rights exercisable under that Act prevail to the extent of the inconsistency or conflict.

Accountability of the Government of Nunavut

14. Accountability

14. Every department of the Government of Nunavut or public agency is accountable for the efficient and effective performance of its Inuit Language obligations under this Act and its role, if any, in the wider implementation of this Act

(a) to the Executive Council through its administrative head; and

(b) to the Legislative Assembly through its Minister.

Part 2 – Inuit Uqausinginnik Taiguusiliuqtiit

15. Establishment

15. An Inuit Language authority is established for Nunavut, and shall be called the Inuit Uqausinginnik Taiguusiliuqtiit.

16. (1) Duty of the Inuit Uqausinginnik Taiguusiliuqtiit

16. (1) It is the duty of the Inuit Uqausinginnik Taiguusiliuqtiit to expand the knowledge and expertise available with respect to the Inuit Language, and to consider and make decisions about Inuit Language use, development and standardization under this Act.

16. (2) Specific duties

16. (2) Without limiting the generality of subsection (1), the Inuit Uqausinginnik Taiguusiliuqtiit shall

(a) develop, through consideration of the oral traditions and usage, diversity and modern needs of the Inuit Language, standardized terminology or expressions in the Inuit Language;

(b) publish, promote and maintain a database of all the standardized terminology or expressions in the Inuit Language;

(c) develop and publish competency levels or standards of Inuit Language use or correctness, including with respect to any dialect of the Inuit Language in local use;

(d) on receiving a request from the Minister, the Languages Commissioner or an organization, consider proposed terminology, expressions, documents, standards, competency levels or communications in the Inuit Language and provide recommendations in response; and

(e) establish and administer, in accordance with applicable law, an award program to recognize outstanding achievement by an organization or individual in implementing

the requirements of this Act or in contributing to the development, promotion or protection of the Inuit Language.

16. (3) Research

16. (3) Without limiting the generality of subsection (1), the Inuit Uqausinginnik Taiguusiliuqtiit shall undertake and supervise research to support the work and performance of its duties, and shall

- (a) document and preserve traditional or historic terminology, regional variants or dialects, expressions and accounts of the Inuit Language;**
- (b) identify research requirements and deficiencies relating to the use, development, learning, linguistic structure, vitality or standardization of the Inuit Language;**
- (c) undertake or supervise and publish research to address the requirements and overcome the deficiencies identified;**
- (d) promote quality, coherence, balance, accessibility and the avoidance of duplication in the research;**
- (e) share information with an organization, academic institution or individual, within or outside Nunavut, with the objective of expanding the available knowledge about and expertise in the Inuit Language, language development or standardization more generally; and**
- (f) undertake or supervise research that the Minister or Executive Council may request.**

16. (4) Other cooperation

16. (4) Without limiting the generality of subsections (1) and (3), the Inuit Uqausinginnik Taiguusiliuqtiit may collaborate with, promote or contribute to the work of an organization, academic institution or individual capable of expanding the knowledge and expertise available with respect to the Inuit Language, or supporting the work or any special projects of the Inuit Uqausinginnik Taiguusiliuqtiit.

16. (5) Standard Inuit Language

16. (5) The Inuit Uqausinginnik Taiguusiliuqtiit may

- (a) designate standard terminology, expressions, orthography, language or usage in the Inuit Language for**
 - (i) use by an organization or in an area of activity to which this Act and the regulations apply, and**
 - (ii) the communications of a department of the Government of Nunavut or public agency;**
- (b) direct a department of the Government of Nunavut or public agency to implement standard terminology, expressions, orthography or another standard language or**

usage in the Inuit Language that the Inuit Uqausinginnik Taiguusiliuqtiit has recommended; and

(c) undertake or supervise additional projects consistent with the duties of the Inuit Uqausinginnik Taiguusiliuqtiit that the Minister or Executive Council may request.

S.Nu. 2009,c.11,s.5

17. (1) Powers

17. (1) In order to perform its duties under this Act, the Inuit Uqausinginnik Taiguusiliuqtiit may

(a) establish committees composed wholly or partly of its members, under the terms and conditions that the Inuit Uqausinginnik Taiguusiliuqtiit considers appropriate;

(b) conduct the reviews, hearings or meetings and receive the submissions or reports that the Inuit Uqausinginnik Taiguusiliuqtiit considers appropriate;

(c) develop, review, recommend or administer surveys or tests that evaluate Inuit Language proficiency for purposes including the certification of an individual's educational or employment skill or competency level in the Inuit Language;

(d) collaborate with an organization, the Languages Commissioner and any other person exercising powers or having duties under this Act;

(e) index or publish information concerning any matter within the authority of the Inuit Uqausinginnik Taiguusiliuqtiit; and

(f) advise or submit reports or recommendations to the Minister at its own initiative, concerning any matter within the authority of the Inuit Uqausinginnik Taiguusiliuqtiit.

17. (2) Rules and procedures

17. (2) Subject to this Act, the Inuit Uqausinginnik Taiguusiliuqtiit may establish rules and procedures

(a) applying to the Inuit Uqausinginnik Taiguusiliuqtiit, or to the Minister or Government of Nunavut or to organizations dealing with the Inuit Uqausinginnik Taiguusiliuqtiit; and

(b) governing the work, priorities and business of the Inuit Uqausinginnik Taiguusiliuqtiit and the manner in which its duties will be exercised and its powers will be performed.

17. (3) Application of Statutory Instruments Act

17. (3) Rules and procedures established under subsection (2) are not statutory instruments or regulations within the meaning of the *Statutory Instruments Act*.

18. Matters to be considered

18. In exercising its powers and performing its duties, the Inuit Uqausinginnik Taiguusiliuqtiit shall, in addition to other factors that the Inuit Uqausinginnik Taiguusiliuqtiit may consider appropriate, have regard to and promote

- (a) effective communications or service delivery practices in the Inuit Language;**
 - (b) the progressive improvement and excellence of the teaching, use, quality and linguistic vitality of the Inuit Language at the individual and community level;**
 - (c) the accelerated development of the Inuit Language, including the development of new terminology that is required for effective compliance with this Act;**
 - (d) effective communication with and between users of an Inuit Language dialect or orthography; and**
 - (e) the careful assessment and selection of those recommendations, measures or approaches that are most likely to be effective in accomplishing the duties of the Inuit Uqausinginnik Taiguusiliuqtiit and the wider objectives of this Act, and not likely to result in any disproportionate adverse impact on an individual or group.**
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19. Consultation

19. In exercising its powers and performing its duties, the Inuit Uqausinginnik Taiguusiliuqtiit

- (a) may consult with the public or any organization or group likely to be impacted by a recommendation or approach under consideration by the Inuit Uqausinginnik Taiguusiliuqtiit in the manner that the Inuit Uqausinginnik Taiguusiliuqtiit considers appropriate and fair; and**
 - (b) shall consult, as required by Article 32 of the *Nunavut Land Claims Agreement* and any other law, with any organization or group of Inuit, or any municipality likely to be impacted by a recommendation or approach under consideration by the Inuit Uqausinginnik Taiguusiliuqtiit.**
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20. (1) Membership

20. (1) The Inuit Uqausinginnik Taiguusiliuqtiit consists of at least five members appointed by the Commissioner in Executive Council, on the recommendation of the Minister.

20. (2) Eligibility

20. (2) To be eligible for appointment to the Inuit Uqausinginnik Taiguusiliuqtiit, an individual must demonstrate

- (a) excellent fluency in the Inuit Language;**
- (b) traditional or academic expertise concerning the history, diversity, status, use, teaching, development or needs of the Inuit Language or the willingness and ability to consider and apply such expertise;**
- (c) personal knowledge concerning more than one regional variant or dialect of the Inuit Language or the willingness to consider and respond to such knowledge; and**
- (d) the capacity to assist the Inuit Uqausinginnik Taiguusiliuqtiit in performing its duties and exercising its powers.**

20. (2.1) Other qualifications

20. (2.1) The Commissioner in Executive Council may, on the recommendation of the Minister, establish additional qualifications or factors to be considered when appointing members to the Inuit Uqausinginnik Taiguusiliuqtiit.

20. (3) Appointment process

20. (3) Before the Commissioner in Executive Council makes an appointment, the Minister shall

- (a) solicit nominations from organizations and from the general public;**
- (b) seek advice respecting the nominations from a committee that includes equal representation from the Government of Nunavut and Nunavut Tunngavik Incorporated and such other representatives of the public or of any particular sector of Nunavut society as the Minister may, by regulation, require;**
- (c) relay the advice of the committee on the nominations and the Minister's recommendation for the appointment to the Commissioner in Executive Council.**

20. (4) Term

20. (4) A member of the Inuit Uqausinginnik Taiguusiliuqtiit shall hold office for a renewable term of three years, except that the first members appointed shall hold office for a renewable term of three to five years as expressed in their appointments.

20. (5) Renewal

20. (5) If both the member in question and Nunavut Tunngavik Incorporated agree, the term of a member of the Inuit Uqausinginnik Taiguusiliuqtiit may be renewed.

20. (6) Termination for cause

20. (6) The appointment of a member of the Inuit Uqausinginnik Taiguusiliuqtiit shall not be terminated except for cause.

20. (7) Notice of resignation

20. (7) A member of the Inuit Uqausinginnik Taiguusiliuqtiit who wishes to resign shall provide the Minister with a notice of resignation, in writing.

20. (8) Continuation after expiry

20. (8) Except as otherwise provided in this section, a member continues to hold office after the expiry of the term referred to in subsection (4) until reappointed, or until a successor is appointed.

20. (8.1) Vacancy

20. (8.1) If there is a vacancy in the Inuit Uqausinginnik Taiguusiliuqtiit, the Commissioner in Executive Council

(a) shall, within 180 days, appoint another individual to serve for the unexpired term of that member; and

(b) may appoint another individual to serve for the unexpired term of that member if, after the expiry of 150 days, a nomination has not been made pursuant to paragraph (3)(a) or a committee has not provided advice under paragraph (3)(b).

20. (9) Remuneration and expenses

20. (9) The Commissioner in Executive Council may, in accordance with the *Financial Administration Act*, provide for the remuneration of and allowance for expenses by members of the Inuit Uqausinginnik Taiguusiliuqtiit in carrying out the members' duties under this Act.

20. (10) Liability

20. (10) No legal action or other proceeding may be brought against a member of the Inuit Uqausinginnik Taiguusiliuqtiit for anything, in good faith, done, omitted, caused, reported or said in the course of the exercise or purported exercise of a power or the performance or purported performance of a duty of the Inuit Uqausinginnik Taiguusiliuqtiit under this Act.

S.Nu. 2009,c.11,s.7.

21. (1) Designation of chairperson and vice-chairperson

21. (1) The Minister shall designate a chairperson and vice-chairperson from among the members of the Inuit Uqausinginnik Taiguusiliuqtiit, after consultation with the members.

21. (2) Chairperson

21. (2) The chairperson shall preside at meetings of the Inuit Uqausinginnik Taiguusiliuqtiit and shall direct its activities and coordinate the exercise of its powers and the performance of its duties under this Act.

21. (3) Vice-chairperson

21. (3) If the chairperson is absent, unable to act or that office is vacant, the vice-chairperson may act as the chairperson and may exercise the powers and perform the duties of the chairperson.

22. (1) Employees

22. (1) The Inuit Uqausinginnik Taiguusiliuqtiit may appoint the employees necessary for the exercise of its powers and conduct of its duties, despite the *Public Service Act*.

22. (2) *Public Service Act*

22. (2) Individuals appointed under subsection (1) are members of the public service as defined in the *Public Service Act*.

22. (3) Status of the chairperson

22. (3) For all purposes relating to this section, the chairperson designated under section 21(1) shall rank as and exercise the powers of a deputy head under the *Public Service Act*.

S.Nu. 2008,c.17,s.22(3).

22.1 (1) Technical assistance

22.1 (1) The Inuit Uqausinginnik Taiguusiliuqtiit may engage or retain the services of experts and other persons, including Elders, considered necessary to the exercise of the powers and performance of the duties of the Inuit Uqausinginnik Taiguusiliuqtiit, and may determine their remuneration.

22.1 (2) *Public Service Act* does not apply

22.1 (2) The *Public Service Act* does not apply to the retention, remuneration or engagement of experts and other persons, including Elders, under subsection (1).

S.Nu. 2008,c.17,s.22(3).

23. (1) Annual report

23. (1) The Inuit Uqausinginnik Taiguusiliuqtiit shall, within nine months after the end of each fiscal year, prepare and submit to the Minister and to the Speaker of the Legislative Assembly an annual report on the performance of its statutory duties and exercise of statutory powers, including the following information:

- (a) the activities of the Inuit Uqausinginnik Taiguusiliuqtiit during the preceding fiscal year;**

(a.1) copies or summaries, as the Inuit Uqausinginnik Taiguusiliuqtiit considers to be appropriate, of the reports or recommendations submitted or advice provided to the Minister under paragraph 17(1)(f), if any;

(b) the results achieved;

(c) an assessment of the strength or needs of the Inuit Language;

(d) the priorities of the Inuit Uqausinginnik Taiguusiliuqtiit and any change of priorities made or anticipated in the interest of a more effective response to the needs of the Inuit Language;

(e) any other information that the Minister may require.

23. (2) Tabling annual report

23. (2) The Speaker shall cause the annual report of the Inuit Uqausinginnik Taiguusiliuqtiit to be laid before the Legislative Assembly as soon as is reasonably practicable.

Part 3 – Responsibilities of the Minister of Languages

24. (1) Minister of Languages

24. (1) The Minister of Languages, appointed by the Commissioner on the advice of the Premier under section 66 of the *Legislative Assembly and Executive Council Act*, shall coordinate, administer and advocate the full, efficient and effective realization and exercise of the rights and privileges established under this Act.

24. (2) Inuit Language promotion

24. (2) Without limiting the generality of subsection (1), the Minister shall develop policies or programs intended to promote

(a) the use and development of the Inuit Language so that it can be used in the full range of activities and sectors of Nunavut society;

(b) increased learning, proficiency and linguistic vitality of the Inuit Language, including its revitalization through initiatives targeting communities or age groups in which there are special concerns about language loss or assimilation;

(c) at the community level,

(i) initiatives for the use, teaching, development, promotion or preservation of the Inuit Language, and

(ii) increased community capacity for the assessment of local needs and the planning and management of local initiatives for the promotion of the Inuit Language;

- (d) public awareness and appreciation of the history, use, status, importance and diversity of the Inuit Language in Nunavut;
- (e) the increased production and use in all sectors of Nunavut society of linguistic expression using all kinds of media, in the Inuit Language;
- (f) the identification and development of the content and methods or technologies for Inuit Language media distribution or access that have the greatest potential to promote the use or revitalization of the Inuit Language, including print, film, television, radio, digital audio or video, interactive or any other media;
- (g) public access to and information about available Inuit Language resources and tools;
- (h) public understanding of this Act and the regulations;
- (i) repealed, S.Nu. 2008,c.17,s.50(7).
- (j) the national, international and private sector recognition of and support for the Inuit Language, including its recognition in law;
- (k) dialogue and co-operation with the representatives of Inuit outside Nunavut, with the objective of protecting, developing and promoting the Inuit Language; and
- (l) the Inuit Language by other means that the Executive Council may require or authorize.

24. (3) Limitation

24. (3) The exercise of the powers and the performance of the duties of the Minister under this section are limited by and shall conform to

- (a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and
- (b) the independence, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

S.Nu. 2008,c.17,s.50(7); S.Nu. 2009,c.11,s.8.

25. (1) Implementation plan and powers

25. (1) The Minister shall include in the implementation plan referred to in subsection 13(3) of the *Official Languages Act* a separate comprehensive plan to ensure the coordinated implementation of this Act and, to this end, the Minister may exercise the powers and shall perform the duties, including consultation, that are assigned to the Minister under subsections 13(3) to (6) of the *Official Languages Act*.

25. (2) Strategy for revitalization and promotion

25. (2) As it relates to this Act, the implementation plan must include a strategy designed to

(a) identify and coordinate activities and measures to be taken for the purpose of Inuit Language revitalization and promotion, particularly targeting communities and age groups for which there are special concerns about language loss or assimilation; and

(b) clarify the roles and responsibilities to be discharged to implement the strategy, including those of government, and any private sector bodies, communities and members of the public.

25. (3) Minister may direct

25. (3) The Minister may direct that a department of the Government of Nunavut or a public agency shall do all or any of the following:

(a) provide information, submissions or program-specific expertise to the Inuit Uqausinginnik Taiguusiliuqtiit that the Inuit Uqausinginnik Taiguusiliuqtiit has requested or recommended or that the Minister considers to be appropriate to the exercise of the powers and the performance of the duties of the Inuit Uqausinginnik Taiguusiliuqtiit;

(b) collaborate with the Inuit Uqausinginnik Taiguusiliuqtiit for the development of Inuit Language proficiency evaluations tailored for

(i) all or any part of the public service,

(ii) any category of child day care operators and staff under the *Child Day Care Act* or other early childhood education providers, or

(iii) any category of teacher or student under the *Education Act*, Nunavut Arctic College Act or other legislation applicable to teachers or students in Nunavut;

(c) use or require participation in a competency assessment, test or survey developed, recommended or administered by the Inuit Uqausinginnik Taiguusiliuqtiit.

26. Agreement

26. The Minister may, on behalf of the Government of Nunavut, enter into an agreement with any person or organization, respecting any matter under this Act that the Minister considers appropriate.

27. Minister's annual report

27. The Minister shall include in a report prepared and submitted under section 15 of the *Official Languages Act* a separate description of

(a) all the activities, results achieved and use of government resources during the preceding fiscal year in relation to the discharge of language obligations under this Act;

(b) the establishment, operation or performance of policies, programs and services in this regard;

(c) the number and nature of the reports and recommendations provided by the Inuit Uqausinginnik Taiguusiliuqtiit pursuant to subsection 17(1), the government response in each case and, if a report or recommendation has not been accepted or implemented, an explanation for the government response; and

(d) the other information relating to this Act and the regulations that the Minister considers appropriate.

Part 4 – Compliance

Languages Commissioner's Role

27.1 (1) Inuit Qaujimajatuqangit

27.1. (1) The following general principles and concepts of Inuit Qaujimajatuqangit apply in respect of the exercise of the powers and performance of the duties of the Languages Commissioner under sections 28 to 35 and section 37:

- (a) Inuuqatigiitsiarniq (respecting others, relationships and caring for people);
- (b) Tunnganarniq (fostering good spirit by being open, welcoming and inclusive);
- (c) Pijitsirniq (serving and providing for family or community, or both);
- (d) Aajiiqatigiinni (decision making through discussion and consensus);
- (e) Piliriqatigiinni or Ikajuqtigiinni (working together for a common cause);
- (f) Qanuqtuurniq (being innovative and resourceful).

27.1 (2) Other Inuit societal values

27.1 (2) The Languages Commissioner may, in the exercise of the powers and performance of the duties of the Languages Commissioner, identify, use or incorporate other Inuit societal values that the Languages Commissioner considers to be relevant and beneficial.

28. (1) Duty of Languages Commissioner

28. (1) The Languages Commissioner shall take all actions and measures within the authority of the Languages Commissioner to ensure that the rights, status and privileges established by this Act with respect to the Inuit Language are recognized and performed.

28. (2) Advice on request

28. (2) The Languages Commissioner may, on request, advise an organization regarding the specific actions or approaches the Languages Commissioner considers appropriate for compliance with this Act and the regulations.

28. (3) Assistance to Inuit Uqausinginnik Taiguusiliuqtiit

28. (3) On the request of the Inuit Uqausinginnik Taiguusiliuqtiit, the Languages Commissioner may provide reasonable assistance to support the informed and effective exercise of a power or performance of a duty of the Inuit Uqausinginnik Taiguusiliuqtiit.

Inuit Language Plan

29. (1) Inuit Language plan

29. (1) An organization that is not a territorial institution may manage its compliance with this Act by means of an Inuit Language plan, which must include the following:

(a) the organizational measures, policies and practices proposed for the communications with or delivery of services to the public that are required under this Act;

(b) a schedule for giving effect to the measures, policies or practices;

(c) an indication of the numbers of the organization's staff, if any, that are or will be fluent in the Inuit Language and able to communicate with or deliver services to the public in the Inuit Language as required under this Act; and

(d) the ways in which the organization will ensure that the Inuit Language plan and the availability of communications with or services to the public in the Inuit Language are publicized.

29. (2) Guidelines

29. (2) The Languages Commissioner may provide or publish guidelines for additional information to be included in an Inuit Language plan.

30. (1) Submission to the Languages Commissioner

30. (1) An organization that is not a territorial institution may submit a proposed plan for communications with or services to the public in the Inuit Language to the Languages Commissioner for approval.

30. (2) Review

30. (2) The Languages Commissioner shall review the proposed Inuit Language plan, having regard to the views of any other individual or organization that the Languages Commissioner considers appropriate.

30. (3) Approval in writing

30. (3) If the Languages Commissioner is satisfied that the plan complies with the requirements of this Act and the regulations, the Languages Commissioner shall approve the plan in writing.

30. (4) Effect of approval

30. (4) If the Languages Commissioner is satisfied that the communications with or delivery of services to the public required by this Act or the regulations are being provided in accordance with a plan approved under subsection (3), the Languages Commissioner may discontinue any investigation commenced under section 31 concerning communications or services provided to the public in accordance with the Inuit Language plan.

30. (5) Inform applicant

30. (5) If the Languages Commissioner refuses to investigate or discontinues an investigation under subsection (4), the Languages Commissioner shall

(a) inform the applicant and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and

(b) provide a written confirmation to the applicant

(i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (4), and

(ii) the date when the information required by paragraph (a) was provided.

30. (6) Plan amendment or revocation

30. (6) If the Languages Commissioner is satisfied that, by reason of a change in circumstances, a plan approved under subsection (3) has ceased to comply with this Act and the regulations, the Languages Commissioner may, in writing,

(a) invite an organization to submit an amended plan within a specified time; and

(b) revoke the approval to the extent required by the change in circumstances.

Application for Investigation

31. (1) Application for investigation

31. (1) A person may apply to the Languages Commissioner orally, or in another form that the Languages Commissioner considers to be satisfactory, for the investigation of concerns that, in the administration of an organization to which this Act applies,

(a) a provision of this or any other Act or regulation relating to the use, promotion or protection of the Inuit Language has not been complied with; or

(b) the spirit and intent of this Act has not been fulfilled.

31. (2) Third parties may apply

31. (2) For greater certainty, a person with legal capacity need not be a parent, an employee, or in any way directly affected, in order to apply to the Languages Commissioner for the investigation of concerns that an organization to which this Act applies has not complied with the requirements of sections 8 to 12 or with the spirit and intent of this Act as it relates to those provisions.

31. (3) Languages Commissioner may initiate

31. (3) On the Languages Commissioner's own initiative, the Languages Commissioner may commence an investigation relating to the grounds for concern referred to in subsection (1).

32. Non-investigative resolution

32. The Languages Commissioner may, at any time before or during an investigation,

(a) engage an organization in the voluntary preparation or amendment of an Inuit Language plan; or

(b) use mediation or other means consistent with Inuit Qaujimajatuqangit in attempting to resolve concerns identified in an application or investigation.

33. (1) Protection for involved persons

33. (1) No person shall discharge, suspend, expel, intimidate, coerce, evict, impose a pecuniary or other penalty on or otherwise discriminate against a person because that person applies for an investigation, gives evidence or assists in an investigation or the reporting of a concern to the Languages Commissioner.

33. (2) Penalty

33. (2) Every person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction,

(a) if an individual, to a fine not exceeding \$5,000; and

(b) if a body corporate or another body with legal capacity, to a fine not exceeding \$25,000.

Investigation - Territorial Institution

33.1 (1) Application concerning territorial institution

33.1 (1) On receipt of an application or request made regarding the administration of a territorial institution, the Languages Commissioner shall investigate in accordance with this section, sections 33.2 to 33.7 and 38 to 42.

33.1 (2) Combining investigations

33.1 (2) The Languages Commissioner may conduct a single investigation of two or more applications or requests, if he or she is satisfied that it is fair and reasonable in the circumstances to do so.

33.1 (3) Notice

33.1 (3) On commencing an investigation, the Languages Commissioner shall provide a notice of the investigation to the territorial institution whose communications with or services to the public or other conduct are of concern.

S.Nu. 2008,c.17,s.50(12).

33.2 (1) Refuse or discontinue investigation

33.2 (1) The Languages Commissioner may refuse to investigate or may discontinue an investigation if, in the opinion of the Languages Commissioner, any of the following situations exist:

- (a) the concerns identified primarily affect an individual or individuals other than the applicant or party requesting an investigation, and the directly affected individual or individuals do not wish to proceed;**
- (b) all or part of the concerns identified in the application or request may be dealt with and remedied, adequately and appropriately, under another Act or using another available procedure;**
- (c) the application or request is frivolous, vexatious, not made in good faith or concerns a trivial matter;**
- (d) the applicant or party requesting an investigation has withdrawn or abandoned the application or request;**
- (e) the concerns identified in the application or request have been resolved.**

33.2 (2) Considerations

33.2 (2) Before making a determination under subsection (1), the Languages Commissioner shall consider all relevant circumstances, including the possibility that a directly affected individual, an applicant or a party who requested the investigation may be reluctant to proceed or that an application or request may have been withdrawn, abandoned or represented as having been resolved because of an abuse or imbalance of power.

33.2 (3) Inform affected persons

33.2 (3) If the Languages Commissioner refuses to investigate or discontinues an investigation under subsection (1), the Languages Commissioner shall

(a) inform the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and

(b) provide a written confirmation to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate

(i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (1), and

(ii) the date when the information required by paragraph (a) was provided.

S.Nu. 2008,c.17,s.50(12).

33.3 (1) Notice and consultation

33.3 (1) If the Languages Commissioner decides to investigate, the Languages Commissioner shall,

(a) before commencing the investigation,

(i) notify the Minister, the administrative head of the territorial institution affected and any other person the Languages Commissioner considers appropriate to notify in the circumstances, and

(ii) consult with the administrative head of the territorial institution affected and with any other person the Languages Commissioner considers appropriate, to attempt to resolve the concerns raised or for any other purpose; and

(b) before making a report or recommendation that may adversely affect a person or territorial institution, consult with that person or territorial institution.

33.3 (2) No hearing as of right

33.3 (2) The Languages Commissioner is not required to hold a hearing and no person is entitled to be heard by the Languages Commissioner except as provided in this Act.

33.4 (1) Investigation powers and procedure

33.4 (1) Except as provided in this section, the Languages Commissioner may, during an investigation, request and obtain information from the persons and in the manner the Languages Commissioner considers appropriate, and may take one or more of the following actions without being bound by the rules of evidence or proceedings in civil cases:

- (a) enter and inspect premises occupied by a territorial institution at any reasonable time;**
- (b) make the inquiries while in those premises that Languages Commissioner considers appropriate, including talking in private with any individual on a voluntary basis;**
- (c) request and examine information, records and objects, make or require copies or take photographs that the Languages Commissioner considers relevant to the concerns under investigation;**
- (d) accept or exclude any information or evidence as the Languages Commissioner considers appropriate, whether or not it would be admissible or excluded in a civil case.**

33.4 (2) Summons and disclosure

33.4 (2) Subject to giving reasonable notice, the Languages Commissioner may in the course of an investigation

- (a) summon and enforce the appearance of a person as a witness;**
- (b) administer oaths and affirmations;**
- (c) compel a person to give evidence on oath or affirmation, including by way of an affidavit, at a time and place the Languages Commissioner specifies; and**
- (d) compel a person to produce documents and things in the person's possession or control that the Languages Commissioner considers relevant to the concerns under investigation, at a time and place the Languages Commissioner specifies.**

33.4 (3) Other powers

33.4 (3) In exercising the powers under subsections (1) and (2), the Languages Commissioner has the same powers and duties as are vested in a court of law in civil cases.

33.4 (4) Limitation

33.4 (4) The exercise of the Languages Commissioner's powers under this section is limited by and shall conform to

(a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and

(b) the independence, duties, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

33.4 (5) Protocol

33.4 (5) The Languages Commissioner shall establish and adhere to a protocol with the Speaker of the Legislative Assembly on behalf of the Legislative Assembly and its members, and with the Nunavut Court of Justice and the Court of Appeal, regarding the Languages Commissioner's exercise of powers and performance of duties under this section.

S.Nu. 2008,c.17,s.50(12).

33.5 (1) Procedure after investigation

33.5 (1) If, after carrying out an investigation, the Languages Commissioner is of the opinion that a matter should be referred to a territorial institution for consideration or action, the Languages Commissioner shall prepare and submit a report of that opinion and the reasons for it to the Minister and to the administrative head of the territorial institution in question.

33.5 (2) Copy to Premier and Minister

33.5 (2) If the territorial institution referred to in subsection (1) is a department of the Government of Nunavut or a public agency, the Languages Commissioner shall submit a copy of his or her report and reasons to the Premier and to the Minister responsible for the department or public agency.

33.5 (3) Report and reply

33.5 (3) In a report under subsection (1), the Languages Commissioner may make the recommendations that he or she considers appropriate, and may request that the administrative head of the territorial institution in question reply to the recommendations of the Languages Commissioner within a specified time indicating

(a) the action that has been or is proposed to be taken to give effect to the recommendations; and

(b) if no action has been or is proposed to be taken, the reasons for not following that recommendation.

S.Nu. 2008,c.17,s.50(12).

33.6 (1) Investigation report to Legislative Assembly

33.6 (1) If no action is taken that the Languages Commissioner considers adequate or appropriate within a reasonable time after a report is submitted under subsection 33.5(1) or (2), the Languages Commissioner may prepare and submit an investigation report to the Speaker of the Legislative Assembly.

33.6 (2) Tabling investigation report

33.6 (2) The Speaker shall cause the investigation report to be laid before the Legislative Assembly as soon as is reasonably practicable.

S.Nu. 2008,c.17,s.50(12).

33.7. Inform affected persons

33.7. The Languages Commissioner shall in every case

(a) at a time and in a manner that the Languages Commissioner considers appropriate and consistent with section 38, inform the applicant or party who requested the investigation, and such other affected persons as the Languages Commissioner considers appropriate, of the result of the investigation, the recommendations made and the actions taken or proposed; and

(b) confirm in writing to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate

(i) that the Languages Commissioner has concluded the investigation, and

(ii) the date when the information required by paragraph (a) was provided.

S.Nu. 2008,c.17,s.50(12).

Investigation - Other Organization

34. (1) Application concerning other organization

34. (1) On receipt of an application or request made regarding the administration of an organization that is not a territorial institution, the Languages Commissioner shall evaluate the concerns and proceed in accordance with this section and sections 35 to 42.

34. (1.1) Reasonable grounds to investigate

34. (1.1) If, after initial review of the application, the Languages Commissioner is satisfied that there are reasonable grounds to investigate, the Languages Commissioner shall investigate.

34. (2) Combining investigations

34. (2) The Languages Commissioner may conduct a single investigation of two or more applications, if he or she is satisfied that it is fair and reasonable in the circumstances to do so.

34. (3) Notice

34. (3) On commencing an investigation, the Languages Commissioner shall provide a notice of the investigation to an organization whose communications with or services to the public or other conduct are of concern.

S.Nu. 2008,c.17,s.50(13).

35. (1) Absence of reasonable grounds

35. (1) The Languages Commissioner shall refuse to investigate or shall discontinue an investigation if, after initial review of an application received under subsection 31(1), the Languages Commissioner determines that there are not reasonable grounds to investigate.

35. (2) Refuse or discontinue investigation

35. (2) The Languages Commissioner may refuse to investigate or may discontinue an investigation if, in the opinion of the Languages Commissioner, any of the following situations exist:

(a) the concerns identified primarily affect an individual or individuals other than the applicant, and the directly affected individual or individuals do not wish to proceed;

(b) all or part of the concerns identified in the application may be dealt with and remedied, adequately and appropriately, under another Act or using another available procedure;

(b.1) the application is frivolous, vexatious, not made in good faith or concerns a trivial matter;

(b.2) the application is not within the jurisdiction of the Languages Commissioner;

(c) the applicant has withdrawn or abandoned the application;

(d) the concerns identified in the application have been resolved.

35. (2.1) Considerations

35. (2.1) Before making a determination under subsection (1) or (2), the Languages Commissioner shall consider all relevant circumstances, including the possibility that an applicant or a directly affected individual may be reluctant to proceed or that an application may have been withdrawn, abandoned or represented as having been resolved because of an abuse or imbalance of power.

35. (3) Inform applicant

35. (3) If the Languages Commissioner refuses to investigate or discontinues an investigation, the Languages Commissioner shall

(a) inform the applicant and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and

(b) provide a written confirmation to the applicant

(i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (1) or (2), and

(ii) the date when the information required by paragraph (a) was provided.

36. (1) Investigation powers and procedure

36. (1) During an investigation, the Languages Commissioner may request and obtain information from the persons and in the manner the Languages Commissioner considers appropriate, and may take one or more of the following actions without being bound by the rules of evidence or proceedings in civil cases:

(a) at any reasonable time, enter and inspect an area or premises, other than a dwelling house, to which the public has access;

(b) make the inquiries while in those premises that Languages Commissioner considers appropriate, including talking in private with any individual on a voluntary basis;

(c) request and examine information, records and objects, make or require copies or take photographs that the Languages Commissioner considers relevant to the concerns under investigation;

(d) accept or exclude any information or evidence as the Languages Commissioner considers appropriate, whether or not it would be admissible or excluded in a civil case.

36. (2) Summons and disclosure

36. (2) Subject to giving reasonable notice, the Languages Commissioner may exercise the following additional powers in the course of an investigation:

(a) summon and enforce the appearance of a person as a witness;

(b) administer oaths and affirmations;

(c) compel a person to give evidence on oath or affirmation, including by way of an affidavit, at a time and place the Languages Commissioner specifies;

(d) compel a person to produce documents and things in the person's possession or control that the Languages Commissioner considers relevant to the concerns under investigation, at a time and place the Languages Commissioner specifies.

36. (3) Other powers

36. (3) In exercising the powers under subsections (1) and (2), the Languages Commissioner has the same powers and duties as are vested in a court of law in civil cases.

37. (1) Powers of the Languages Commissioner if concern substantiated

37. (1) If, after carrying out an investigation regarding the administration of an organization that is not a territorial institution, the Languages Commissioner considers that a concern under investigation is substantiated, the Languages Commissioner may

- (a) recommend the specific measures, policies and practices that an organization may undertake in order to comply with this Act;**
- (b) direct an organization to inform the Languages Commissioner within a specified time of the action taken or proposed to correct its practices;**
- (c) if no action is taken or proposed within the time specified under paragraph (b), use the powers set out in subsections 36(2) and (3) to summon and enforce the appearance of a person, and compel the person to produce documents, things or evidence;**
- (d) publish information about an organization, including measures recommended under paragraph (a) or information received under paragraph (b) or (c); and**
- (e) apply to the Nunavut Court of Justice for a remedy under subsection 39(1) and include in the Languages Commissioner's application an affidavit containing the Languages Commissioner's findings and the recommendations, if any, that the Languages Commissioner considers appropriate.**

37. (2) Inform affected persons

37. (2) The Languages Commissioner shall in every case

- (a) at a time and in a manner that the Languages Commissioner's considers appropriate and consistent with section 38, inform the applicant and such other affected persons as the Languages Commissioner considers appropriate of the Language Commissioner's findings and the powers exercised under subsection (1); and**
- (b) confirm in writing to the applicant and such other affected persons as the Languages Commissioner considers appropriate**
 - (i) that the Languages Commissioner has concluded the investigation; and**
 - (ii) the date when the information required by paragraph (a) was provided.**

S.Nu. 2008,c.17,s.50(14); S.Nu. 2009,c.11,s.12.

Rules, Procedures and Forms

37.1 (1) Rules, procedures and forms

37.1 (1) Subject to this Act, the Languages Commissioner shall make rules governing the procedures and forms that may be used and the manner in which the powers conferred and duties imposed by this Act will be exercised and performed.

37.1 (2) Application of *Statutory Instruments Act*

37.1 (2) Rules made under subsection (1) are not statutory instruments or regulations within the meaning of the *Statutory Instruments Act*.

Confidentiality and Disclosure of Information

38. (1) Confidentiality

38. (1) Except as authorized or required by law, the Languages Commissioner and every person acting on behalf or under the direction of the Languages Commissioner shall maintain confidentiality and shall not disclose information received in the performance of his or her duties.

38. (2) Necessary disclosure

38. (2) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf or under the direction of the Languages Commissioner to disclose, information that the Languages Commissioner considers necessary to

(a) further an investigation; or

(b) establish grounds for conclusions and recommendations made in a report issued in the course of the exercise of a power or the performance of a duty of the Languages Commissioner.

38. (3) Disclosure for proceedings under Act

38. (3) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf of or under the direction of the Languages Commissioner to disclose, information that the Languages Commissioner or a court considers necessary in a proceeding under this Act or the *Official Languages Act*, or an appeal of such proceeding.

38. (4) Evidence not compellable

38. (4) The Languages Commissioner and any person acting on behalf of or under the direction of the Languages Commissioner is not a compellable witness in respect of any

information or evidence received in the performance of duties or exercise of powers under this Act, except in a proceeding under this Act or the *Official Languages Act*, or an appeal of such proceeding.

38. (5) Public interest

38. (5) The Languages Commissioner may, if the Languages Commissioner considers it to be appropriate in the public interest after an investigation and any related proceedings are finally concluded, publish general information relating to an organization's communications with or delivery of services to the public in the Inuit Language, including case studies or commentaries about the practical application and operation of this Act and the regulations.

38. (5.1) Confidential information of a private sector body

38. (5.1) Subsection (5) does not authorize the disclosure of financial, commercial, scientific, technical, labour relations or other confidential information, that is supplied by a private sector body to support a request for accommodation under paragraph 3(5)(b), and that has not been previously published.

38. (5.2) Same

38. (5.2) Confidential information supplied by a private sector body to support a request for accommodation under paragraph 3(5)(b) shall not be disclosed except in accordance with the *Access to Information and Protection of Privacy Act*.

38. (6) Paramountcy

38. (6) If there is an inconsistency or conflict between this Part and the *Access to Information and Protection of Privacy Act* or the regulations made under that Act, this Part prevails to the extent of the inconsistency or conflict.

Reports and information

38.1 (1) Reports and information final

38.1 (1) Reports and information provided by the Languages Commissioner under this Act are not subject to appeal or to review by a court.

38.1 (2) Use of reports

38.1 (2) Despite subsection (1), if an application is filed under subsection 39(1) or paragraph 40(1)(a), a report purported to be provided by the Languages Commissioner under this Act is admissible in evidence as proof, in the absence of evidence to the contrary, of the contents of the report and that the Languages Commissioner provided the report.

Enforcement in the Nunavut Court of Justice

39. (1) Enforcement application

39. (1) An application may be made to the Nunavut Court of Justice for a remedy that the Court considers appropriate and just in the circumstances by a person who has applied to the Languages Commissioner under subsection 31(1) or a person who is directly affected by an outcome of an investigation under this Act if

(a) the Languages Commissioner has refused or discontinued an investigation under subsection 30(4), 35(1) or (2);

(b) the Languages Commissioner has informed the applicant about powers exercised under subsection 37(1); or

(c) more than one year has passed since the day the application was made and the applicant has not been informed that an investigation has been refused or discontinued or of the progress or outcome of the investigation.

39. (2) Limitation period

39. (2) Subject to subsection (3), an application may not be made under subsection (1)

(a) more than one year after the day on which the applicant

(i) is informed, under subsection 30(5) or 35(3), of the Languages Commissioner's decision to refuse or discontinue an investigation, or

(ii) is informed, under subsection 37(2), of the discretion exercised by the Languages Commissioner; or

(b) more than two years after the date of the initial application to the Languages Commissioner, if the applicant has not received the information referred to in paragraph (a) after the expiry of one year.

39. (3) Filing after time expired

39. (3) The Nunavut Court of Justice may accept an application filed after the expiration of the time limit referred to in subsection (2) if the Court determines that

(a) the delay in filing was incurred in good faith; and

(b) the refusal to waive a time limit would result in a greater adverse impact on the applicant, as compared to the prejudice, if any, experienced by any other person as the result of the delay.

39. (4) Other rights of action

39. (4) Nothing in this section abrogates or derogates from any right of action a person might have other than the right of action set out in this section.

S.Nu. 2009,c.11,s.13.

40. (1) Languages Commissioner may apply or appear

40. (1) The Languages Commissioner may

(a) apply to the Nunavut Court of Justice for a remedy within the time limit established by subparagraph 39(2)(a)(ii) only after obtaining, in writing, the consent of an applicant;

(b) appear before the Nunavut Court of Justice on behalf of a person who has applied under subsection 39(1) for a remedy; or

(c) with leave of the Nunavut Court of Justice, appear as a party to a proceeding under subsection 39(1).

40. (2) Applicant may appear

40. (2) If the Languages Commissioner makes an application under paragraph (1)(a), an applicant may appear as a party in the proceedings.

40. (3) Capacity to intervene

40. (3) Nothing in this section affects the capacity of the Languages Commissioner to seek leave to intervene in any adjudicative proceedings relating to the status or use of the Inuit Language.

41. Order to participate

41. The Nunavut Court of Justice may, in addition to any other interim order or direction that the Court considers appropriate, issue an interim order requiring an organization and such persons as the Court considers appropriate,

(a) to participate with a special Languages Commissioner in the preparation of an Inuit Language plan; and

(b) to provide information to the special Languages Commissioner for this purpose.

42. Relief

42. The Nunavut Court of Justice may, in addition to any other remedy the Court considers appropriate,

(a) order an organization to take specific remedial action to correct its practices in order to comply with this Act and the regulations;

(b) order an organization or the Languages Commissioner to publish a notice or account of a remedial action taken or proposed to be taken to correct the practices of the organization, whether or not the Court has exercised powers under paragraph (a);

(c) specify the role, if any, that the Court will have in supervising the preparation of an Inuit Language plan or other compliance with an order under this Act; and

(d) award damages, including damages to an individual for any affront to dignity that individual may have suffered.

Part 5 – Miscellaneous

Review of Act

43. (1) Review in conjunction with Official Languages Act

43. (1) Except as directed by motion of the Legislative Assembly, section 37 of the *Official Languages Act* governs the review of this Act.

43. (2) Inuit Uqausinginnik Taiguusiliuqtiit

43. (2) A review under subsection (1) shall include a review of the status of the Inuit Uqausinginnik Taiguusiliuqtiit, and whether or not administrative independence is necessary for its work.

Regulations

44. (1) Regulations

44. (1) The Commissioner in Executive Council, on being satisfied that appropriate consultation has occurred and that the requirements of Article 32 of the *Nunavut Land Claims Agreement* have been fulfilled, may make regulations

(a) designating the administrative head of a public agency referred to in the definition "administrative head" in subsection 1(1);

(a.1) under subsection 1(1), identifying by class, condition or circumstance the situations in which a private sector body to which this Act would otherwise apply is or may be exempted;

(a.2) excluding a public agency under subsection 1(1), where the public agency is established for purposes relating primarily to the heritage, cultural expression, strengthening or promotion of a single language or language community;

(a.3) under paragraph 1(2)(c), respecting the circumstances or instances in which both Inuinnaqtun and Inuktitut must be used under this or any other Act;

(a.4) under subsection 3(1) as it applies to private sector bodies, in respect of a specified place, class, condition or circumstance,

(i) detail an obligation set out in section 3,

(ii) vary an obligation set out in section 3 and substitute a less onerous or different requirement for communication or services in the Inuit Language, or

- (iii) waive an obligation set out in section 3;
- (b) setting out the other services to the public referred to in paragraph 3(2)(c);
- (c) setting out the other communications referred to in paragraph 3(3)(c);
- (d) setting out the additional communications and services referred to in paragraph 6(e);
- (e) respecting any matter the Commissioner in Executive Council considers necessary to effect compliance with sections 8 to 12, including any matter required to ensure their efficient and effective implementation;
- (f) respecting the performance of duties or the exercise of powers by the Inuit Uqausinginnik Taiguusiliuqtiit under this Act;
- (g) deleted, 2nd Legislative Assembly, September 10, 2008;
- (g.1) respecting the establishment and maintenance of a register of persons or organizations under section 44.2;
- (g.2) repealed, S.Nu. 2009,c.11,s.15.
- (h) respecting any matter the Commissioner in Executive Council considers necessary to support the Minister's performance of duties and exercise of powers under this Act; and
- (i) respecting any matter the Commissioner in Executive Council considers necessary to carry out the purposes and provisions of this Act.

44. (2) Independence affirmed

44. (2) This section does not empower the Commissioner in Executive Council to make regulations respecting the Legislative Assembly, the Nunavut Court of Justice or the Court of Appeal.

44. (3) Other prerequisites

44. (3) At least four months before a regulation is made under subsection (1),

- (a) the proposed regulation shall be published in the Nunavut Gazette, together with an Inuit Language translation and information about the manner in which interested persons may comment on the proposed regulation;
- (b) a notice of the proposed regulation, stating where a copy of it and an Inuit Language translation of it may be obtained and information about the manner in which interested persons may comment on the proposed regulation, shall be published in at least one newspaper of general circulation in Nunavut; and
- (c) the Minister shall notify the Speaker and Nunavut Tunngavik Incorporated that a proposed regulation has been published as required by paragraph (a).

44. (4) Report on development process

44. (4) To support the determination required in subsection (1), the Minister shall provide a report to the Commissioner in Executive Council, summarizing the measures undertaken to request and obtain public or other input about the regulation, the Minister's manner of compliance with Article 32 of the *Nunavut Land Claims Agreement* and whether or in what manner the regulation proposed responds to the issues raised during the development of the regulation and in the course of compliance with this section.

44. (5) Report on the proposed regulation

44. (5) The Minister shall submit the report referred to in subsection (4) to the Speaker of the Legislative Assembly.

44. (6) Tabling report

44. (6) The Speaker shall cause the report to be laid before the Legislative Assembly as soon as is reasonably practicable.

S.Nu. 2008,c.17,s.50(16),(17); S.Nu. 2009,c.11,s.15.

44.1 (1) Legislative Assembly Regulations

44.1 (1) The Speaker, on the recommendation of the Management and Services Board, may make regulations for the Legislative Assembly respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act as the Speaker, on the recommendation of the Management and Services Board, considers necessary to ensure that the Legislative Assembly is in compliance with this Act, including but not limited to regulations respecting signage, notices, translation, interpretation and the giving of notice.

44.1 (2) Rules of Court

44.1 (2) The Nunavut Court of Justice and the Court of Appeal may, subject to the approval of the Commissioner, make rules of court respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act or in procedural rules already in force, that are considered to be necessary to ensure compliance with this Act, including rules respecting signage, notices, translation, interpretation and the giving of notice.

S.Nu. 2009,c.11,s.16.

44.2 (1) Consultation register

44.2 (1) The Minister shall establish and maintain, in accordance with the regulations, a register of persons or organizations to be consulted in relation to

(a) section 44; or

(b) other consultation or collaborative work required by this Act on the part of the Minister or Government of Nunavut.

44.2 (2) Use of register

44.2 (2) The Minister shall consult with every person or organization duly entered in the register.

44.2 (3) Public access

44.2 (3) A person may inspect the register by attending at the prescribed office during regular government business hours and requesting that the register be produced for inspection.

S.Nu. 2008,c.17,s.50(18).

Commencement

49. Coming into force

49. (1) Sections 1, 2, 14, 15 and 20 to 23 and Parts 3 and 5 come into force on assent.

49. (2) Sections 3 to 5 come into force on a day or days to be fixed by order of the Commissioner.

49. (3) Sections 6 and 7 come into force four years after the day on which this Act receives assent.

49. (4) Section 8 comes into force

(a) for Kindergarten to Grade 3 on July 1, 2009; and

(b) for all other primary and secondary grades on July 1, 2019.

49. (5) Sections 9 and 10 come into force on a day or days to be fixed by order of the Commissioner.

49. (6) Sections 11 to 13 come into force three years after the day on which this Act receives assent.

49. (6.1) Sections 16 to 19 come into force one year after the day on which this Act receives assent, or on a day or days to be fixed by order of the Commissioner, whichever is earlier.

49. (7) Part 4 comes into force on July 1, 2009, or on a day or days to be fixed by order of the Commissioner, whichever is earlier.

Nunavut – Other Language Laws

**[Access to Information and Protection of Privacy Act, S.N.W.T. \(Nu\) 1994,
c. 20](#)**

Part 1 – Access to Information

Division A – Obtaining Access to Records

7. (3) Language of access

7. (3) The head of a public body shall give access to a record in the Official Language of Nunavut requested by an applicant where

(a) the record already exists in the control of the public body in that language; or

(b) the head of the public body considers it to be in the public interest to have a translation of the record prepared in that language.

7. (4) No translation fee

7. (4) An applicant shall not be required to pay a fee for the translation of a record.

S.Nu. 2005,c.3,s.1(3).

11. (1) Extension of time limit for responding

11. (1) The head of a public body may extend the time for responding to a request for a reasonable period where

[...]

(e) a requested record exists in the control of the public body only in language other than the Official Language of Nunavut requested by the applicant and additional time is required for translation.

11. (3) Document to be provided

11. (3) Where the time for responding to a request is extended under paragraph (1)(e), the head of the public body shall provide access to a record or a copy of a record in the original language of the record within the time limit specified under subsection 8(1).

S.Nu. 2012,c.13,s.2,3.

[Access to Information and Protection of Privacy Regulations - Access to Information and Protection of Privacy Act, N.W.T. Reg. \(Nu\) 206-96](#)

3. Requests

3. An applicant may make an oral request for access to a record if

(a) the applicant's ability to read or write in an Official Language is limited; or

(b) the applicant has a physical disability or condition that impairs the applicant's ability to make a written request.

[Adoption Act, S.N.W.T. \(Nu\) 1998, c. 9](#)

Interpretation

3. Best interests of the child

3. Where there is a reference in this Act to the best interests of a child, all relevant factors must be taken into consideration in determining the best interests of a child including the following factors, with a recognition that differing cultural values and practices must be respected in making that determination:

[...]

(c) the child's cultural, linguistic and spiritual or religious ties or upbringing and the importance of a family environment that will respect the child's cultural and linguistic heritage and traditions and religious or spiritual background;

ANNOTATIONS

[Application Re: adoption of M.J., 2015 NWTSC 32 \(CanLII\)](#)

[41] Another important provision to keep in mind is Section 3 of the [*Adoption*] Act because it provides additional clarification as to what factors are to be considered when considering what is in the best interests of the child. Section 3 applies to the Act as a whole and reads as follows:

[...]

N.B. – Although this judgment interprets the Northwest Territories *Adoption Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation and the relevant wording of the *Nunavut Adoption Act* remains similar to that of the Northwest Territories *Adoption Act*.

[Adoption Regulations – Adoption Act, N.W.T. Reg. \(Nu\) 141-98](#)

Departmental adoptions

20. (1) Placement of Child in Territories

20. (1) For the purpose of placing a child with an approved applicant on the list of approved applicants under subsection 18(2) of the Act, the Director shall review the list of approved applicants and assess each applicant in relation to the following:

[...]

d) the child's cultural, linguistic and spiritual or religious ties and upbringing and whether the applicant will be able to provide a family environment that will respect the child's cultural and linguistic heritage and traditions and religious or spiritual background;

40. Placement outside territories

40. For the purpose of placing a child outside the Territories under subsection 44(1) of the Act, the Director shall review the list of approved applicants for placement outside the Territories and assess each applicant in relation to the following:

[...]

d) the child's cultural, linguistic and spiritual or religious ties and upbringing and whether the applicant will be able to provide a family environment that will respect the child's cultural and linguistic heritage and traditions and religious or spiritual background;

55. (1) Personal Histories

55. (1) An Adoption Worker shall use a personal history form approved by the Director in completing a personal history, which must include the following information about the person who is the subject of the personal history:

[...]

c) ancestral history including ethnicity, languages spoken, aboriginal status and any other thing related to ancestral history

68. General

68. Notwithstanding sections 63, 64 and 66, a person who wishes to receive registry information may make an oral request instead of submitting a request for registry information form if

a) the person's ability to read or write in an Official Language is limited; or

70. (1) Registry information shall be disclosed in the language in which it is deposited with the Adoption Registry.

70. (2) A person may request the Registrar to translate all or part of the registry information disclosed to him her into an Official Language.

**Adoption of the French Version of Statutes and Statutory Instruments Act,
R.S.N.W.T. (Nu) 1988, c. 92 (Supp.)**

2. (1) Preparation of Rolls

2. (1) The Minister shall cause to be prepared and printed

(a) a Statute Roll comprised of the French version of

(i) all statutes revised in accordance with the *Statute Revision Act*,

(ii) all statutes not revised but still in force, and

(iii) all statutes enacted after December 31, 1988 and before the Commissioner declares any part of the Statute Roll in force; and

(b) subject to subsection (2), a Statutory Instruments Roll comprised of the French version of all statutory instruments in force on December 31, 1990.

2. (2) Regulations repealed and replaced

2. (2) Subsection (1) does not apply to regulations that were in force on December 31, 1990 and that are repealed or repealed and replaced between that date and March 31, 1992.

2. (2.1) Supreme Court Rules

2. (2.1) The Supreme Court Rules need not be included in the Statutory Instruments Roll referred to in subsection (1).

2. (3) Deposit of Rolls

2. (3) The Statute Roll and the Statutory Instruments Roll shall be attested by the signature of the Commissioner and countersigned by the Minister and shall be deposited in the Office of the Clerk of the Legislative Assembly.

2. (4) Original of French version

2. (4) The Statute Roll and the Statutory Instruments Roll deposited in the Office of the Clerk of the Legislative Assembly are the original of the French version of the Acts and statutory instruments contained in the Rolls.

S.N.W.T. 1991-92,c.1,s.1.

Business Corporations Act, S.N.W.T. (Nu) 1996, c. 19

Part II – Incorporation

10. (1) Corporate name

10. (1) The word "Limited", "Limitée", "Incorporated", "Incorporée", "Corporation" or "Société" or the abbreviation "Ltd.", "Ltée", "Inc." or "Corp." shall be the last word of the name of every corporation, but a corporation may use and may be legally designated by either the full or the corresponding abbreviated form.

[...]

10. (4) Alternate name

10. (4) A corporation may set out its name in its articles in an English form, a French form, an English form and a French form or in a combined English and French form, and the corporation may use and may be legally designated by any of those forms.

10. (5) Languages other than English or French

10. (5) A corporation may, in accordance with the regulations, set out its name in the articles in a form that includes words in a language other than English or French.

10. (6) Alternate name outside Canada

10. (6) A corporation may, outside Canada, use and be legally designated by a name in any language.

Part XXI – Extra-Territorial Corporations

Registration

282. (2) *Charter* in languages other than English or French

282. (2) If all or any part of the charter is not in English or French, the Registrar may require a translation of the charter or that part of the charter, verified in a manner satisfactory to the Registrar, before the extra-territorial corporation is registered.

Business Corporations Regulations – Business Corporations Act, N.W.T. Reg. (Nu) 018-98

14. (1) The name of a corporation or registered extraterritorial corporation shall contain only the following:

- (a) the letters or characters of the English or French language, including accents;
- (b) Arabic numerals;
- (c) the following punctuation, characters or other marks:

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14. (2) The first character of the name of a corporation or of a registered extra-territorial corporation shall be an Arabic numeral or a letter or character of the English or French language.

14. (3) No corporation or registered extra-territorial corporation shall have a name that consists primarily of a combination of punctuation or other marks.

16. (1) Where a corporation has set out its name in two language forms under subsection 10(4) of the [*Business Corporations*] Act, one language form shall be a direct translation of the other language form.

16. (2) Notwithstanding subsection (1), minor changes may be made to ensure that each form is idiomatically correct.

16. (3) Where a corporation has set out a combined English and French form, the "/" mark shall separate the two forms of the name.

[Child and Family Services Act, S.N.W.T. \(Nu\) 1997, c. 13](#)

Interpretation

3. Best interests of the child

3. Where there is a reference in this Act to the best interests of a child, all relevant factors must be taken into consideration in determining the best interests of a child including the following factors, with a recognition that differing cultural values and practices must be respected in making that determination:

[...]

(c) the child's cultural, linguistic and spiritual or religious upbringing and ties;

ANNOTATIONS

[Nunavut \(Child and Family Services\) v B.H.](#), 2011 NUCJ 3 (CanLII)

II. EVIDENCE

[34] The respondent has taught her children how to sew mitts and she speaks Inuinnaqtun with her children.

[...]

B. Respondent

[62] The respondent has a solid bond with the children and the goal of reunification of the family is not out of reach. Furthermore, this Court should consider the cultural implications of breaking up this family unit. The respondent and her children are Inuit and the respondent speaks to them

in English and Inuinnaqtun. The mother wants to teach them traditional crafts such as making and sewing mitts.

Nunavut (Director of Child and Family Services) v. K. (H.), 2008 NUCJ 19 (CanLII)

[97] She [counsel for the biological parents] strongly emphasizes the importance of Inuit culture to the children and the recognition of this factor in the preamble to the *CFS [Child and Family Services] Act*. Further re-enforcement of this principle was effected by including culture and linguistic factors in the best interests of the child test in section 3. The importance of this factor was confirmed by the Manitoba Court of Appeal in *T. (E. J.) v. V. (P. M.)* (1996), [1997] 24 R.F.L. (4th) 269, 1996 CarswellMan 276, and the Yukon Supreme Court in *Nukon v. Nukon*, 2005 YKSC 55 (CanLII), 2005 CarswellYukon 77.

[98] Further buttressing the cultural factor is the unique approach to adoption in the Northwest Territories and Nunavut reviewed by Browne J. of this Court in *K. (S. K.) v. S. (J.)* (2002 June 4), Iqaluit 01 000053 CV, Nu. Ct. J. Counsel for the biological parents relies on the comments of Justice Browne at para. 36 on the continuing importance of contact with the biological parents in custom adoptions. The case law is re-enforced by the *Aboriginal Custom Adoption Recognition Act*, S.N.W.T. 1994, c. 26, as duplicated for Nunavut by s. 29 of the *Nunavut Act*, S.C. 1993, c. 28.

[99] Counsel for the biological parents notes the unique policy considerations flowing from *Nunavut Land Claim Agreement* that support the importance of culture and language to the Inuit. She also reviews the changing trends in Canadian public policy toward the culture of First Nations as a result of the damage caused by the residential school system.

[...]

A. Best interest of the child

[129] Dr. Hildahl believes that continued contact with the biological parents is important to the children in developing their sense of identity. He extols the importance of culture and language in the development of identity, stating that he agrees with the statement that “you dream in the language of your culture.” He does not feel that culture can be absorbed by osmosis and has to be experienced. [...]

[132] Finally Dr. Hildahl believes that all parties could benefit from [134] After due consideration of both [expert] reports, I am satisfied that there would be greater harm to the children in denying access to the biological parents. It is in the best interest of the children that access continues in the future.

Children's Law Act, S.N.W.T. (Nu) 1997, c. 14

Part III – Custody, Access and Guardianship

Division A – Custody and Access

Best Interests Test

17. (1) Best interests of child

17. (1) The merits of an application under this Division in respect of custody of or access to a child shall be determined in accordance with the best interests of the child, with a recognition that differing cultural values and practices must be respected in that determination.

17. (2) Considerations in determining best interests

17. (2) In determining the best interests of a child for the purposes of an application under this Division in respect of custody of or access to a child, the court shall consider all the needs and circumstances of the child including

[...]

(c) the child's cultural, linguistic and spiritual or religious upbringing and ties;

ANNOTATIONS

[Boucher v. McKay](#), 2017 NWTSC 14 (CanLII)

The child's cultural, linguistic and spiritual or religious upbringing and ties:

[43] I consider XXXX's enrolment in the French Immersion program in Yellowknife to be a neutral factor. It shows a commitment by Mr. XXXX and Ms. XXXX to XXXX's education, but it can be a mixed blessing, especially when none of a child's parents speak French. It also has to be offset against the loss of an opportunity to both learn the Chipewyan language and be part of the Chipewyan culture in Fort Resolution. It was suggested by counsel for Mr. XXXX that the court consider Chipewyan to be a dying language. This I will not do. The fact that XXXX is receiving some limited instruction in the Dene culture in Yellowknife does not take the place of the opportunity to learn the language of the culture he was born into.

[44] Languages only die when people stop speaking them and caring about them. Language is also the primary medium for the transmission of culture. I was impressed by the testimony of the teacher from the school in Fort Resolution. It is clear that the school and the community are committed to the students and the Chipewyan culture. If XXXX loses this opportunity as child it will be almost impossible for him to regain it as an adult, no matter how badly he wants to.

N.B. – Although this judgment interprets the Northwest Territories *Children's Law Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation and the relevant wording of the Nunavut *Children's Law Act* remains similar to that of the Northwest Territories *Children's Law Act*.

[Lacoursiere v. Penk](#), 2015 NWTSC 19 (CanLII)

[103] Section 17(1) of the *Children's Law Act* says that different cultural values and practices must be respected in the determination of best interests. Mr. XXXX wishes the children to know and appreciate their German heritage. Although Ms. XXXX does not put a lot of emphasis on that, she has lived in Germany and speaks German and I am satisfied that she is sensitive to their heritage.

N.B. – Although this judgment was rendered by the Northwest Territories Supreme Court, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at

the time of its creation and the relevant wording of the Nunavut *Children's Law Act* remains similar to that of the Northwest Territories *Children's Law Act*.

H.I. v. E.I., 2011 NUCJ 32 (CanLII)

[15] EI and the children have been resident in Ottawa, Ontario since the summer. The two older children have taken part in summer camps. They are now in school. They are participating in Inuit after school cultural programs at the Inuit cultural center. [...]

[...]

[27] HI presses a claim to custody, or in the alternative, an access order forcing the children's return to their home community, as a means of ensuring that he will remain a part of the children's lives. It is argued that a continuing connection by the children with their Inuit culture, and with their extended family in community X is in the children's best interests. It is said that these needs are better preserved and protected by the children's return to their home community.

[...]

B. Interim custody

[34] HI has not been the primary care giver to these children. For many years, this responsibility has fallen upon EI. HI continues to be employed two weeks in and two weeks out at a mine site that is some distance away from community X. During these absences, HI is unable to provide the continuity of care that is necessary for these young children. A change in the day to day care arrangements for the children is simply not warranted on an interim basis. Such a change risks further trauma to the children.

[35] In arriving at this decision on interim custody, the Court has directed itself to all of the criteria set out in section 17(2) of the *Children's Law Act*.

[36] The Court concludes that it is in the children's best interests, at least on an interim basis, for EI to continue to provide primary care to the children. EI is therefore awarded interim custody of the three children.

R.(A). v. A.(R)., 2010 NUCJ 9 (CanLII)

[12] On applications for interim custody the court must be guided by the best interests of the child. The factors that the court must consider in determining the best interests of the children are set out at section 17(2) of the *Children's Law Act*.

B. (G.) v. K. (M.)., 2008 NUCJ 23 (CanLII)

[16] The first issue is to make an award of custody by determining the best interest of the children as set out in section 17 of the *Children's Law Act*, S.N.W.T. 1997, c. 14, as duplicated for Nunavut by s. 29 of the *Nunavut Act*, S.C. 1993, c. 28.

[...]

Section 17(2)(c): “the child’s cultural, linguistic and spiritual or religious upbringing and ties”

[22] The children are Nunavut land claim beneficiaries who have lived in the north all of their lives. They spent many summers with their Inuit grandparents in a small traditional Inuit community and have emotional ties with them and other relatives. They grew up in A, a large Inuit community, and now live in B, a large community in the Northwest Territories, which has a significant Inuit population and cultural links with the Inuit communities of Nunavut.

[23] On the other hand, the children have no connection with the large southern city where the father resides and proposes to relocate the children. The father has no extended family in the city. The father is a member of an Inuit society that organizes occasional cultural activities, but admitted it would not be as good as the cultural activity available in B. I am satisfied there would be little opportunity for the children to stay connected to their Inuit roots. The children will have better exposure to Inuit cultural values by remaining in B with their mother and her Inuit partner.

K. (A.) v. K. (M.), 2007 NUCJ 24 (CanLII)

[40] I have considered the factors listed in s.17 of the *CLA* [*Children's Law Act*], though I will not specifically refer to each one in these reasons. I am satisfied that s.17(3) of the *CLA* is not applicable.

[41] The Wife has raised legitimate concerns about the educational plan of the Husband with respect to learning Inuktitut or English as a first language. It is an issue that is the subject of much debate and there is no easy answer. The anticipated results will only be known when the child finishes the sixth grade. The same is true about the loss of cultural connection with the move to a larger center away from the extended family of the Wife. I am sure both parties love their child and want the best for him.

[...]

[47] I am satisfied that both homes would be adequate over the short-term, but feel that there will be more stability with the Husband. He has proposed a very generous access regime over the next year and I am sure he will do everything he can to ensure that the access will be carried out as planned.

B. (R.) v. A. (O.), 2005 NUCJ 24 (CanLII)

[5] The Applicant submitted that the daycare in Vancouver was superior to that in Iqaluit because it combined a daycare and a kindergarten together. He also indicated that he spoke rudimentary Inuktitut to G. and had taken some steps to ensure he continued to develop his awareness of Inuit culture.

[...]

B. Respondent

[8] The Respondent emphasized the need for the child to settle into one community so that he has a solid base of support when he starts kindergarten in the fall of 2006. This includes building up relationships with relatives and friends who will facilitate the cultural connection required by the child to his Inuit roots. These needs can only be met in Iqaluit in contrast to Vancouver where the Applicant chose to live. There is a vast difference between these two cities and their ability to meet the cultural and language needs of the child. Vancouver does not have the capacity to meet these needs despite the best intentions of the Applicant to speak to the child in rudimentary Inuktitut and teach him about his culture.

[9] The Respondent expressed concern with the loss of Inuktitut by the child during his four months in Vancouver. She noticed that, on his return to Iqaluit, he did not like it when spoken to in Inuktitut. Since his return, he is attending a pre-school program twice a week where he is taught in Inuktitut and exposed to Inuit cultural activities such as throat singing. Vancouver has no Inuit cultural or community organizations to provide similar support.

[...]

[17] [...] She [the Respondent] also has valid concerns about the loss of Inuktitut by the child during a long period of custody with the Applicant away from the cultural influences of Nunavut. The longer the present arrangement continues the harder it will be later on.

[18] In assessing the strengths and weaknesses of the proposed plans of both the Applicant and Respondent, as revealed in the affidavits filed, it is clear to me that both parties are good parents who love and care for their child and the want the best for him. The Applicant has settled into a new relationship and has a new son. He has a good job with little traveling that will enable him to spend a significant amount of time with G. His new partner has interacted with G., both in Iqaluit and Vancouver, and has developed a good loving relationship with him. She feels that G. has the ability to adapt to two homes and is comfortable traveling on airplanes. G. excelled and developed in the Vancouver daycare which has many of the big city advantages not possessed by the daycare that G. is attending in Iqaluit. On the negative side, Vancouver has no Inuit population base, unlike some eastern cities such as Ottawa, and no Inuit cultural or support organizations. As a result, G. will be cut off from his Inuit culture and language except for that provided by the Applicant, who speaks rudimentary Inuktitut and has taken extra steps to supply the Inuit cultural connection.

[...]

[22] I can only repeat similar words to that of Vertes J. in *I. (L.J.) v. I. (T.)*, [1994] N.W.T.R. 378, [1994] N.W.T.J. No. 64 (NWT. S.C.), with respect to G. I am satisfied that, for the, hopefully, short time to trial, G. is in a healthy and loving environment with people he is familiar with, close to his natural family and living in a community of his own culture. That is not to say that the Applicant would not also provide a loving and healthy environment for G. However, before causing any further disruption to his present routine, all the merits of the case will have to be examined in detail at a trial.

Corrections Act, R.S.N.W.T. (Nu) 1988, c. C-22

Correctional Centres

15. (1) Information for inmates

15. (1) On admission to a correctional centre, every inmate shall be provided with

- (a) full information concerning the rules governing the treatment of inmates; and**
- (b) other information of which the inmate should have knowledge.**

15. (2) Content of information

15. (2) Information referred to in subsection (1) must

[...]

(b) be in writing or by other means and in a language that the inmate understands;
and

Education Act, S.Nu. 2008, c. 15

Recognizing the relationship between learning and language and culture, and the importance of the curriculum and school programs being developed and delivered accordingly;

Believing that bilingual education can contribute to the preservation, use and promotion of Inuit language and culture and provide students with multiple opportunities;

[...]

Affirming the minority language rights of the Francophone linguistic community under section 23 of the *Constitution Act, 1982* in Nunavut's predominantly Inuit cultural environment;

Part 2 – Interpretation

3. (1) Definitions

3. (1) In this Act,

[...]

"Inuit Language" means the Inuit Language as defined in the *Inuit Language Protection Act*; (*langue inuit*)

[...]

3. (2) Inuinnaqtun

3. (2) In its application to Inuinnaqtun, this Act shall be interpreted and implemented in a manner that is consistent with the need to give priority to

(a) the revitalization of Inuinnaqtun; and

(b) the improvement of access to communication, services, instruction and Inuit Language programs in Inuinnaqtun in the communities where Inuinnaqtun is indigenous.

3. (3) Constitutional rights, including aboriginal rights, paramount

3. (3) Nothing in this Act shall be construed so as to abrogate or derogate from

(a) the status of or any constitutional or other rights in respect of the English or French languages;

[...]

(c) any legal or customary right or privilege acquired or enjoyed with respect to the Inuit Language, either before or after the coming into force of this Act; or

(d) any responsibility of the Parliament and Crown of Canada concerning the linguistic or cultural rights or heritage of Inuit or other linguistic minorities in Nunavut.

Part 3 – School Program

General

8. (4) Promotion of understanding of Nunavut

8. (4) The curriculum shall promote fluency in the Inuit Language and an understanding of Nunavut, including knowledge of Inuit culture and of the society, economy and environmental characteristics of Nunavut.

9. (2) Nature of local program

9. (2) Local programs may consist of

[...]

(b) other modifications that are to be made to the curriculum to reflect the local dialect or local culture.

17. (1) Early childhood program, Inuit Language and culture

17. (1) In addition to the school program, a district education authority shall provide an early childhood program that promotes fluency in the Inuit Language and knowledge of Inuit culture.

17. (2) Same

17. (2) A program provided under subsection (1) may be limited to such number of children as the district education authority may determine or to such class or classes of children as it may determine.

17. (3) Inuit Qaujimajatuqangit

17. (3) Programs provided under subsection (1) shall be developed in accordance with and be based on Inuit societal values and the principles and concepts of Inuit Qaujimajatuqangit, particularly the principle of Pilimmaksarniq.

17. (4) Regulations

17. (4) The Commissioner in Executive Council may make regulations respecting programs provided under subsection (1), including regulations related to the content and standards for the delivery of the programs.

Part 4 – Language of Instruction

23. (1) Bilingual education

23. (1) Every student shall be given a bilingual education and the languages of instruction shall be the Inuit Language and either English or French as determined by a district education authority with respect to the schools under its jurisdiction.

23. (2) Purpose

23. (2) The purpose of the bilingual education required under subsection (1) is to produce graduates who are able to use both languages competently in academic and other contexts.

24. (1) Role of district education authority

24. (1) A district education authority, in accordance with the regulations, shall decide which of English or French will be used with the Inuit Language as a language of instruction for the schools under its jurisdiction and shall, from the options set out in the regulations, choose the bilingual education model or models that will be followed in delivering the education program.

24. (2) Review of decision

24. (2) The district education authority, in accordance with the regulations, shall review a decision made under this section five years after its initial decision under subsection (1) and at five-year intervals thereafter.

24. (3) Confirmation or change of decision

24. (3) Following each review, the district education authority may either confirm or change its decision under subsection (1).

24. (4) Consultation

24. (4) Before making a decision under this section, including a confirmation or change under subsection (3), a district education authority shall consult with the community in accordance with the regulations.

25. (1) Role of Minister

25. (1) The Minister is responsible for ensuring that the duties of the Government of Nunavut under this Act, the *Inuit Language Protection Act* or any other Act related to education in the Inuit Language are fulfilled.

25. (2) Support for the Inuit Language

25. (2) In administering this Act, the Minister shall ensure that the education program supports the use, development and the revitalization of the Inuit Language.

25. (3) Curriculum

25. (3) In addition to his or her duties under subsection (2), the Minister, in establishing the curriculum under subsection 8(2), shall ensure that it supports the use of the languages of instruction and the bilingual education models that may be chosen for delivering the education program.

25. (4) Competency targets

25. (4) The Minister shall establish and implement competency targets in the spoken and written forms of the languages of instruction.

25. (5) Assessment

25. (5) The Minister shall ensure that students are regularly assessed to determine whether the competency targets are being achieved.

25. (6) Learning materials

25. (6) The Minister shall make available learning materials to enhance and support the use of the Inuit Language.

26. Teaching of other languages

26. Languages in addition to the languages of instruction may be taught as part of the education program.

27. (1) Limitation on application

27. (1) The application of this Part is subject to section 169.

27. (2) Non-application to sign language

27. (2) This Part does not apply to a student who receives instruction through the use of sign language.

N.B. – Note that subsequent to section 169 of the *Education Act*, Part 4 does not apply to the education program provided by the Commission scolaire francophone.

29. Regulations

29. The Commissioner in Executive Council may make regulations for the purposes of this Part and without limiting the generality of the foregoing, the Commissioner in Executive Council may make regulations

- (a) establishing the process to be followed and matters to be considered by a district education authority in determining the languages of instruction for the schools under its jurisdiction;**
 - (b) establishing models for bilingual instruction and requiring that they be followed by district education authorities and by principals;**
 - (c) governing the selection and use of more than one bilingual education model by a district education authority;**
 - (d) governing the community consultation process to be followed by a district education authority under subsection 24(4);**
 - (e) governing assessments for the purpose of determining if students are achieving the competency targets established under subsection 25(4); and**
-

Part 8 – Assessment of Students

74. (1) Nunavut-wide assessments

74. (1) The Minister shall establish and maintain a program of Nunavut-wide assessments to assess the literacy of students in each language of instruction and their numeracy skills.

Part 9 – Records Relating to Students

82. Regulations

82. For the purposes of this Part, the Commissioner in Executive Council may make regulations governing student records, including, without restricting the generality of the foregoing,

[...]

(b) their translation into the Inuit Language or into English or French;

Part 13 – French Minority Language Rights

General

156. (1) Definition of "rights holder"

156. (1) In this Part, "rights holder" means an individual who has a right under section 23 of the *Canadian Charter of Rights and Freedoms* to have his or her children receive instruction in the French language.

156. (2) References to district education authorities

156. (2) A reference in this Part to a district education authority does not include a reference to the Commission scolaire francophone.

157. Purpose

157. The purpose of this Part is to provide for instruction in the French language for the French linguistic minority population of Nunavut in accordance with section 23 of the *Canadian Charter of Rights and Freedoms*.

158. Rights prevail

158. The rights contained in this Part prevail to the extent of any conflict over any other Part of this Act or any provision of any other Act respecting the language of instruction in schools, including, without restricting the generality of the foregoing, any provision relating to the use of the Inuit Language as a language of instruction.

159. Duty of Minister to ensure rights

159. The Minister shall ensure

(a) that wherever in Nunavut the number of children of rights holders is sufficient to warrant French-language instruction that such instruction is available out of public funds; and

(b) if the number of children of rights holders so warrants, that the children receive the instruction required by paragraph (a) in French-language educational facilities that are provided out of public funds.

159.1. Regard to *Charter* rights

159.1. In giving any directions to the Commission scolaire francophone, the Minister shall have regard to the Minister's duty under section 159 and the rights that rights holders have under section 23 of the *Canadian Charter of Rights and Freedoms*.

160. (1) Entitlement to instruction in French

160. (1) An individual, who under section 2 is entitled to attend a school and who is the child of a rights holder, is entitled to be taught in a school or classroom under the jurisdiction of the Commission scolaire francophone, as provided in this Part.

160. (2) Application

160. (2) Subsection (1) only applies in areas of Nunavut where there is instruction in the French language provided out of public funds.

161. (1) Petitions in respect of French-language instruction

161. (1) Rights holders who live in an area of Nunavut where there is no instruction in the French language provided out of public funds may petition the Minister for instruction in the French language provided out of public funds under the jurisdiction of the Commission scolaire francophone,

(a) in a French-language school under the jurisdiction of the Commission; or

(b) in classrooms in a school that is under the jurisdiction of a district education authority.

161. (2) Same

161. (2) Rights holders who live in an area of Nunavut where there is instruction in the French language in classrooms in a school that is under the jurisdiction of a district education authority may petition the Minister for instruction in the French language provided out of public funds in a French-language school under the jurisdiction of the Commission scolaire francophone.

161. (3) Presentation of petition

161. (3) A petition under subsection (1) or (2) may be presented directly to the Minister or to the Minister through the Commission scolaire francophone.

161. (4) Consultation

161. (4) If a petition under subsection (1) or (2) is presented through the Commission scolaire francophone, the Commission shall provide the Minister with its recommendations with respect to how to respond to the petition.

161. (5) Same

161. (5) If a petition under subsection (1) or (2) is presented directly to the Minister, he or she shall seek the recommendations of the Commission scolaire francophone with respect to how to respond to the petition.

161. (6) Decision

161. (6) The Minister shall consider any recommendations of the Commission scolaire francophone and shall make his or her decision in accordance with his or her duty under section 159.

161. (1) Decisions to no longer provide instruction in an area

162. (1) The Minister may decide that instruction in the French language no longer be provided out of public funds in an area if the number of children of rights holders is no longer sufficient to warrant French-language instruction out of public funds.

162. (2) Consultation

162. (2) The Minister shall seek the recommendations of the Commission scolaire francophone before making a decision under subsection (1).

162. (3) Decision

162. (3) The Minister shall consider any recommendations of the Commission scolaire francophone and shall make his or her decision in accordance with his or her duty under section 159.

Governance

163. Role of the Commission scolaire francophone

163. The Commission scolaire francophone is responsible for the provision of public education in the French language for the children of rights holders in Nunavut.

N.B. – For more information on the governance, powers, duties and responsibilities of the Commission scolaire francophone, see sections 164-179.

168. (1) Modifications re: Part 3, curriculum, texts and learning materials

168. (1) For the purposes of the curriculum for education provided by the Commission scolaire francophone,

(a) the references to the Minister in subsections 8(1) to (3) and in section 10 shall be deemed to be references to the Commission; and

(b) the reference in subsection 8(4) to the Inuit Language shall be deemed to be a reference to the French language.

[...]

168. (7) Early childhood programs

168. (7) The references in subsection 17(1) to the Inuit Language and to Inuit culture shall be deemed to be references to the French language and to francophone culture respectively.

169. Non-application of Part 4, language of instruction

169. Part 4 does not apply to the education program provided by the Commission scolaire francophone.

172. Duty to inform

172. The Commission scolaire francophone shall keep the residents of Nunavut informed about the provision of public education under its jurisdiction.

Promotion of Language and Culture

180. Promotion of language and culture

180. Teachers, including principals and vice-principals, in schools or classrooms under the jurisdiction of the Commission scolaire francophone shall promote fluency in the French language and knowledge of Francophone culture.

Regulations

181. Regulations

181. The Commissioner in Executive Council may make regulations

(a) respecting the election of the members of the Commission scolaire francophone;

(b) providing for the election of members from different electoral districts to the Commission scolaire francophone;

(c) modifying the *Local Authorities Elections Act* as it applies to the election of members of the Commission scolaire francophone;

(d) specifying the respective powers and duties of the Commission scolaire francophone and the district education authority where the Commission is providing instruction in the French language in classrooms in a school that is under the jurisdiction of a district education authority and governing how those powers and duties should be exercised, including requiring them to be exercised jointly;

Part 16 – Miscellaneous

203. (2) Illustrations of regulation-making power

203. (2) Without restricting the generality of subsection (1), the Commissioner in Executive Council may make regulations

[...]

(d) governing education in sign language;

Language of Instruction Regulations – Education Act, Nu. Reg. 014-2012

2. Non-application to Commission scolaire francophone

2. These regulations do not apply to the Commission scolaire francophone.

3. Bilingual Education

3. (1) These Regulations apply to the provision of a bilingual education to every student as required by section 23(1) of the Act.

3. (2) The following are the bilingual education models for use in schools in Nunavut and are the options available for the purposes of subsection 24(1) of the Act:

(a) the Qulliq Model;

(b) the Immersion Model; and

(c) the Dual Model.

3. (3) The Qulliq Model, the Immersion Model and the Dual Model are described in the Table of Bilingual Education Models in the Schedule to these Regulations.

4. Duty to Follow Model

4. (1) A district education authority shall follow the bilingual education model or models that it chooses.

4. (2) A principal shall follow the bilingual education model or models that the district education authority chooses.

5. Needs of Student to Prevail

5. If there is a conflict between what a bilingual education model requires and what a particular student requires as an adjustment under Part 6 of the Act, the required adjustment prevails in respect of the student.

6. Review of Decisions

6. A district education authority shall carry out its reviews under subsection 24(2) of the Act in accordance with these regulations.

7. Language Committee

7. (1) Before the end of the school year preceding a review year, a district education authority shall ensure that it has a language committee.

7. (2) The language committee shall be appointed by the district education authority and shall consist of

(a) a member of the district education authority;

(b) one or two members of the community who are neither members of the district education authority nor members of the education staff of a school under the jurisdiction of the district education authority;

(c) one or two members of the education staff of schools under the jurisdiction of the district education authority; and

(d) the Elders, if any, appointed under subsection (3).

7. (3) A district education authority shall appoint

(a) two Elders as members of the language committee if there are two Elders in the community who are willing to serve on the Committee; or

(b) one Elder as a member of the language committee if there is only one Elder in the community who is willing to serve on the Committee.

7. (4) A district education authority shall use its best efforts to ensure that

(a) each of the members appointed under paragraphs (2)(b) and (c) has experience or expertise in at least one of the following:

(i) teaching a language,

(ii) promoting the use of a language, or

(iii) promoting literacy; and

(b) at least half of the members appointed under paragraphs (2)(b) and

(c) have experience or expertise in at least one of the following:

(i) teaching Inuktitut or Inuinnaqtun,

(ii) promoting the use of Inuktitut or Inuinnaqtun, or

(iii) promoting literacy in Inuktitut or Inuinnaqtun.

7. (5) The language committee of a district education authority shall

(a) make recommendations to the district education authority with respect to the decisions that the district education authority is required to make under section 24 of the Act; and

(b) perform such other functions as are set out in these regulations or as are assigned to it by the district education authority.

8. Review Plan

8. (1) Before the end of the school year preceding a review year, a district education authority, in consultation with its language committee and the Minister, shall develop a plan for the conduct of a review under subsection 24(2) of the Act.

8. (2) The review plan must include a schedule showing a planned date for completing each of the requirements set out in sections 9 to 22.

8. (3) A district education authority shall submit a copy of the review plan to the Minister within 30 days after it is developed.

8. (4) A district education authority, its language committee and the principals in the schools under the jurisdiction of the district education authority shall perform their duties under these regulations in respect of a review in accordance with the schedule referred to in subsection (2).

9. Commencement of Work under the Plan

9. (1) Subject to subsection (2), implementation of the review plan must begin within one month following the first instructional day of the review year.

9. (2) If in the schools under the jurisdiction of a district education authority, there are different grades or schools with different first instructional days, the implementation of the review plan must begin within one month following the last of those first instructional days.

10. Progress Report

10. On or before November 30 in the review year, a language committee shall submit to the Minister and to the district education authority a report on its progress in respect of the review.

11. Initial Information from Principals

11. At the beginning of the review process, the principal of each school under the jurisdiction of a district education authority shall provide to the language committee of the district education authority the following information as it relates to the delivery of the bilingual education required by subsection 23(1) of the Act:

- (a) information on staffing at the time of the review and as projected for the next five years;**
 - (b) information on teaching and learning resource needs;**
 - (c) information the principal has on the matters specified in section 13; and**
 - (d) any other information the principal thinks is relevant or that the language committee requests.**
-

12. Initial Community Consultation

12. A language committee shall hold an initial consultation with the community at the beginning of the review process

- (a) to inform the community that the previous decisions of the district education authority with respect to the language of instruction and the bilingual education model or models of the district education authority are being reviewed; and**
 - (b) to obtain input with respect to the language needs of the community.**
-

13. Other Information

13. (1) A language committee shall obtain information on the following:

- (a) the use of language in the community;
- (b) the programs and resources in the community that contribute to the development, promotion or support of the Inuit Language and English or French in the community, including programs or resources that contribute to the development, promotion or support of bilingual education;
- (c) the abilities and needs of the education staff as those abilities and needs relate to the delivery of the bilingual education required by subsection 23(1) of the Act, at the time of the review and as projected for the next five years;
- (d) the use of language by pre-school children, at the time of the review and as projected for the next five years;
- (e) the language strengths and needs of children beginning school, at the time of the review and as projected for the next five years;
- (f) the assessments of students under subsection 25(5) of the Act and any classroom assessments of the language abilities of students; and
- (g) the actions that are necessary to ensure that the bilingual education model or models in effect at the time of the review are implemented effectively.

13. (2) Information provided to a language committee under paragraph (1)(f) may only be in summary form and must not contain any personal information.

14. Matters to be Considered by Language Committees

14. A language committee shall consider the following in developing recommendations to the district education authority:

- (a) the information provided by the principal or principals under section 11;
 - (b) any input received from the community through the consultation under section 12; and
 - (c) the information obtained under section 13.
-

15. Minister's Advice

15. On the request of a language committee, the Minister shall advise the committee with respect to the collection and consideration of information under sections 11, 12, 13 and 14.

16. Report to District Education Authority

16. (1) A language committee shall make a report to the district education authority containing

- (a) the committee's recommendation on whether the decisions of the district education authority in effect at the time of the review should be confirmed or changed;**
- (b) a summary of the information considered under section 14;**
- (c) if the recommendation is to change any decision previously made under section 24 of the Act that is in effect at the time of the review, an explanation of how the change would better meet the needs of students; and**
- (d) such other information as the committee considers necessary to assist the district education authority in making its decisions in relation to the languages of instruction and the bilingual education model or models to be followed by the district education authority.**

16. (2) After making its report, the language committee shall provide such additional information and explanations as the district education authority may require.

16. (3) The district education authority shall make the report available to the public.

17. Consideration by District Education Authority and Preliminary Decisions

17. (1) A district education authority shall consider the report made to it under section 16 and make preliminary decisions on languages of instruction and the bilingual education model or models to be followed.

17. (2) Before making a preliminary decision, a district education authority

- (a) shall consider whether the information summarized for it under paragraph 16(1)(b) is adequate for the purpose of making the preliminary decision; and**
- (b) if it decides that the summarized information is inadequate, shall use its best efforts to obtain adequate information.**

17. (3) If a preliminary decision provides for a change to a previous decision under section 24 of the Act that is in effect at the time of the review, the district education authority shall

- (a) notify the Minister and the principals of the schools under its jurisdiction of the decision;**
- (b) document, based on the implementation plan referred to in section 18, the significant expected effects on staffing, on those who are students at the time of the review and on new students;**
- (c) if the recommendation is to choose more than one bilingual education model, prepare an explanation of how the models would be used together; and**
- (d) consult the community and school staff with respect to the preliminary decision.**

17. (4) During a consultation required by paragraph (3)(d), a district education authority shall explain how the preliminary decision would better meet the language needs of students and it shall make the documentation and explanations required by paragraphs (3)(b) and (c) available to the public.

18. Implementation Plan

18. (1) Upon making its preliminary decisions under subsection 17(1), a district education authority shall direct the principals of the schools under its jurisdiction to prepare a plan for the implementation of those decisions.

18. (2) An implementation plan must cover the five-year period which begins on the first day of the school year immediately following the review year and must include staffing plans and any other thing necessary to deliver the education program in accordance with the preliminary decisions.

18. (3) If the preliminary decisions provide for a change to a previous decision under section 24 of the Act that is in effect at the time of the review, an implementation plan must provide for the transition from delivering the education program in accordance with the previous decision to delivering it in accordance with the preliminary decisions.

19. Final Decisions

19. (1) Before making its final decisions on the languages of instruction and the bilingual education model or models to be followed, a district education authority shall consider the implementation plan prepared under section 18 and the results of the consultations required by paragraph 17(3)(d).

19. (2) If a district education authority decides to proceed on the basis of its preliminary decisions, it shall finalize them by resolution.

19. (3) If a district education authority decides not to proceed on the basis of its preliminary decisions, it shall make new preliminary decisions.

19. (4) Subsections (1), (2) and (3) and sections 17 and 18 apply to the new preliminary decisions referred to in subsection (3).

19. (5) A district education authority shall make its final decisions before the end of the review year.

20. Special Rules

20. A district education authority may choose more than one bilingual education model only if

(a) there are enough students with significantly different language needs and strengths to justify using the models and there is appropriate evidence that the

staffing necessary to deliver the education program using those models is available throughout the five-year period which begins on the first day of the school year immediately following the review year;

(b) the models are implemented in such a way that a student who is taught in a grade using one model may continue under that model from one grade to the next; and

(c) the Minister consents to the choice.

21. Record of Decisions and Public Notice

21. After making its final decisions on languages of instruction and the bilingual education model or models to be followed, a district education authority shall

(a) submit a report to the Minister containing

(i) a record of the resolution referred to in subsection 19(2),

(ii) a copy of the language committee's report to the district education authority under subsection 16(1),

(iii) a record of any further information or explanations provided by the language committee under subsection 16(2) and a record of any discussions between the district education authority and the language committee,

(iv) a copy of the implementation plan prepared under section 18,

(v) a summary of any consultations that were conducted by the district education authority;

(b) notify the school staff, the students, the parents and the community of the decisions; and

(c) make the implementation plan prepared under section 18 available to the public.

22. Effective Date of Decisions

22. The final decisions of a district education authority in respect of languages of instruction and the bilingual education model or models to be followed take effect on the first day of the school year immediately following the review year.

23. Duty to Follow Implementation Plan

23. (1) A principal shall ensure that the implementation plan prepared under section 18 is followed in his or her school.

23. (2) Where circumstances warrant, the principals in consultation with the district education authority may make amendments to the implementation plan prepared under section 18.

23. (3) Where circumstances warrant, a principal in consultation with the district education authority may, in respect of his or her school, permit deviations from the implementation plan.

23. (4) Without restricting the generality of subsection 114(5) of the Act, a district education authority may give directions to principals related to amendments to and deviations from the implementation plan.

24. Assessments – Competency Targets

24. (1) Assessments required by subsection 25(5) of the Act must include both oral and written assessments.

24. (2) The assessments must include

(a) assessments that are part of the in-class instruction; and

(b) assessments that are conducted by a teacher in respect of each of his or her students at least three times in the school year.

25. School Team Assistance

25. At the request of a student's teacher, the school team shall assist with the assessment of the student to determine the learning needs of the student with respect to his or her competency in the languages of instruction.

26. Records

26. (1) A student's teacher shall keep records of the student's competency and progress in the spoken and written forms of the languages of instruction.

26. (2) The records shall include records of the assessments of the student and samples of the student's work.

27. Exemptions

27. (1) Beginning with the 2019 - 2020 school year, a student who is in grade 10, 11 or 12 may be exempted from the language requirements set out in the Schedule that apply to the student if a parent of the student or, if the student is an adult, the student requests the exemption.

27. (2) The request shall be made to the principal of the student's school.

27. (3) The principal shall refer the request to the school team and, if the school team supports the request, he or she shall refer the request to a committee appointed under subsection (5).

27. (4) The committee may grant the request if it is satisfied that granting the exemption

(a) will not significantly affect the purpose of bilingual education as set out in subsection 23(2) of the Act; and

(b) will be in the best interests of the student.

27. (5) The Minister may appoint committees for the purposes of this section and give directions to them.

28. Phased Implementation of Part 4

28. Part 4 of the Act applies to a grade named in column 1 of the following table beginning with the school year set out in column 2 opposite the named grade.

Table – Phased Implementation

Column 1	Column 2
Grade	School Year
4	2013-2014
5	2014-2015
6	2015-2016
7	2016-2017
8	2017-2018
9	2018-2019
10, 11, 12	2019-2020

29. Transition – Competency Targets

29. The Minister

- (a) shall continue the development of the competency targets referred to in subsection 25(4) of the Act during the period that ends June 30, 2014; and**
 - (b) may establish and implement those competency targets before June 30, 2014 but is not required to do so.**
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30. Transition – Language of Instruction

30. A district education authority is deemed to have chosen the language of instruction that was used in the 2009 – 2010 school year as the language of instruction to be used with the Inuit language in the 2010 – 2011 school year and in subsequent school years if no decision was made on this matter before the coming into force of these regulations.

31. Transition – Choice of Bilingual Education Model

31. (1) If, before the coming into force of this section, a district education authority chose one or more bilingual education models for the schools under its jurisdiction and the model or models have the name of a model described in subsection 3(2), a model so chosen

- (a) is deemed to be a choice of the model as described in these regulations; and**
- (b) shall be followed by the district education authority and by principals in accordance with the model as described in these regulations.**

31. (2) If a district education authority made a choice to which subsection (1) applies and the decision in respect of the choice, or the most recent affirmation of the choice, was made on or before June 30, 2006, the district education authority shall conduct a review of the decision in the 2012 – 2013 school year.

31. (3) The following rules apply if a district education authority made a choice to which subsection (1) applies and the decision in respect of the choice, or the most recent affirmation of the choice, was made after June 30, 2006:

- (a) the district education authority shall either pass a resolution approving the decision or affirmation or it shall conduct a review of the decision in the 2012 – 2013 school year if it did not finalize the decision or affirmation of the choice by resolution;**
- (b) the district education authority shall conduct a review of the decision in the 2012 – 2013 school year if it did not consult with the community before finalizing the decision or affirmation;**

(c) the district education authority shall comply with subsection (4) if it did not consider the following information before finalizing the decision or affirmation:

(i) the use of language in the community,

(ii) the programs and resources in the community that would contribute to the development, promotion or support of the Inuit Language and English or French in the community, including programs or resources that would contribute to the development, promotion or support of bilingual education,

(iii) the abilities and needs of the education staff as those abilities and needs relate to the delivery of the bilingual education required by subsection 23(1) of the Act,

(iv) the language strengths and needs of children beginning school.

31. (4) If paragraph (3)(c) applies, the district education authority, subject to subsection 13(2), shall obtain and consider all the information described in paragraphs 13(1)(a) to (g) before deciding whether to confirm its decision or affirmation.

31. (5) The confirmation of a decision or affirmation to which subsection (4) applies shall be finalized by resolution or, if the district education authority decides not to confirm the decision or affirmation, it shall make an alternative decision.

31. (6) Subsection 17(3) and sections 18 to 22 apply with necessary modifications to an alternative decision under subsection (5) as if a reference to a preliminary decision in those provisions were a reference to the alternative decision.

31. (7) A district education authority shall comply with subsections (2) to (6) on or before June 30, 2013.

32. (1) If a district education authority did not choose at least one bilingual education model for the schools under its jurisdiction before the coming into force of this section, it shall conduct a review in the 2012 – 2013 school year and choose one or more bilingual education models for the schools under its jurisdiction.

32. (2) If the district education authority was in the process of making a decision with respect to its choice of one or more bilingual education models and had consulted with the community before the coming into force of this section, subsection (1) does not apply but the district education authority, subject to subsection 13(2), shall obtain and consider the information described in paragraphs 13(1)(a) to (f) and make a preliminary decision in respect of the bilingual education model or models to be followed.

32. (3) Sections 18 to 22 apply to a preliminary decision under subsection (2).

32. (4) A district education authority shall comply with subsection (1) or (2) on or before June 30, 2013.

33. (1) These regulations apply to a review required by subsection 31(2), paragraph 31(3)(a) or (b) or subsection 32(1), except that

(a) under subsection 7(1), a district education authority shall ensure that it has a language committee within 30 days after the later of the coming into force of these regulations and the first instructional day in the 2012 – 2013 school year; and

(b) under subsection 8(1), the plan for the conduct of the review shall be developed within 30 days after the deadline under paragraph (a).

33. (2) If in the schools under the jurisdiction of a district education authority, there are different grades or schools with different first instructional days, the district education authority shall,

(a) despite paragraph (1)(a), ensure that it has a language committee within 30 days after the later of the coming into force of these regulations and last of those first instructional days; and

(b) despite paragraph (1)(b), develop the plan for the conduct of the review within 30 days after the deadline under paragraph (a).

34. Despite subsection 24(2) of the Act, a district education authority that is required to conduct a review or do anything else under section 31 or 32 must still conduct a review in the 2015 – 2016 school year.

35. Review of Regulations and Bilingual Education Models

35. (1) On or before June 30, 2017, the Minister shall review and publish a report on these regulations, the bilingual education models and the implementation of these regulations.

35. (2) The report shall include such recommendations for changes to the regulations, the bilingual education models and the implementation of the regulations as the Minister considers appropriate.

Schedule – (Subsection 3(3))

Table of Bilingual Education Models Time or Credits Related to Each Language by Grade Level

	Quilliq Model	Immersion Model	Dual Model

K-3	Inuit language: 85-90% Non-Inuit language, taught as a subject: 10-15%	Inuit language: 85-90% Non-Inuit language, taught as a subject: 10-15%	students are assigned to one of the following streams by the school team in consultation with the parents both streams must be available	
			Inuit language stream Inuit language: 85-90% Non-Inuit language, taught as a subject: 10-15%	Non-Inuit language stream Inuit language: 85-90% Inuit language, taught as a subject: 10-15%
4-6	Inuit language: 70-75% Non-Inuit language: 25-30%	Inuit language : 80-85 % Non-Inuit language: 15-20%	Grade 4: Inuit language: 70-75% Non-Inuit language: 25-30%	Grade 4: Non-Inuit language: 70-75% Inuit language: 25-30%
			Grade 5: Inuit language: 60-70% Non-Inuit language: 30-40%	Grade 5: Non-Inuit language: 60-70% Inuit language: 30-40%
			Grade 6: Inuit language: 55-60% Non-Inuit language: 40-45%	Grade 6: Non-Inuit language: 55-60% Inuit language: 40-45%
7-9	Inuit language: 55-65% Non-Inuit language: 35-45%	Inuit language: 65-70% Non-Inuit language: 30-35%	Inuit language: 50-60% Non-Inuit language: 40-50%	Non-Inuit language: 50-60% Inuit language: 40-50%

10-12	<p>Minimum Credits Required – Grade 10 to 12</p> <p>All Models</p> <p>Grade 10 courses</p> <p>Inuit language: 15 credits</p> <p>Non-Inuit language: 15 credits</p> <p>Grade 11 courses</p> <p>Inuit language: 10 credits</p> <p>Non-Inuit language: 10 credits</p> <p>Grade 12 courses</p> <p>Inuit language: 10 credits</p> <p>Non-Inuit language: 10 credits</p> <p>Additional courses</p> <p>Inuit language: 15 credits</p> <p>Non-Inuit language: 15 credits</p>
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Notes to Table of Bilingual Education Models

(Section 28 of the *Language of Instructions Regulations* provides a phase-in period for the requirements set out in this Table)

1. Kindergarten and Grades 1 to 9

1.1. The percentages in the Table are requirements for instruction time in kindergarten and grades 1 to 9.

1.2. The required percentages are on a weekly basis. The required percentages do not have to be met each day but they must be met each week.

1.3. A requirement for a language can be met by using that language as the language of instruction or by teaching that language as a subject. This note does not apply with respect to a requirement that specifies that the requirement is for a language to be taught as a subject. Such a requirement can be satisfied only by teaching the language as a subject.

1.4. In grades 7 to 9, the time for the Inuit language can be less than the required percentage and time for the non-Inuit language correspondingly more if there is insufficient staff to meet the required percentage for the Inuit language and the Minister

has approved the reduction. However, this does not allow the time for the Inuit language to be less than 30 percent of instruction time.

1.5. The percentage of time for the Inuit language cannot increase or decrease more than 20 percentage points as a student progresses from one grade to the next. This limitation applies even if a district education authority is changing from one bilingual education model to another.

2. Grades 10 to 12

2.1. The requirements in the Table are minimum requirements for credits in grades 10 to 12. For example, a student may obtain more Inuit language credits than are required.

2.2. The requirements in the Table are for credits for courses of a certain grade level, not requirements for what must be taken in a particular year. For example, the requirement for ten Grade 11 credits in the Inuit language can be met by credits obtained partly in one year and partly in the next year.

2.3. The requirements in the Table under "Additional courses" are requirements for Grade 10, 11 or 12 credits in addition to the credits used to satisfy the requirements under other headings in the Table.

2.4. A requirement for a language can be met by credits in a course that uses that language as the language of instruction or that teaches that language as a subject.

2.5. If there is insufficient staff to provide Inuit language instruction for Grade 10 to 12 courses for a student and the Minister has approved the reduction

(a) the requirements for Inuit language credits may be reduced by up to five credits in respect of the requirements in the Table under "Grade 10 courses"; and

(b) the requirements for Inuit language credits may be reduced by up to 15 credits in respect of the requirements in the table under "Additional courses".

Consultation Regulations – Education Act, Nu. Reg. 022-2009

3. (1) Consultation Registrar

3. (1) The consultation register shall contain the following information in respect of each person or organization that requests registration:

[...]

(b) the language or languages in which the person or organization prefers to be consulted;

Consolidation of Inclusive Education Regulations – Education Act, Nu. Reg. 017-2011

1. Duties of Teachers – Identification of Needs

1. In identifying under subsection 43(1) of the Act those students who are entitled to adjustments or support under subsection 41(1) of the Act, a teacher shall

- (a) use assessment tools and strategies, approved by the Minister, to assess the needs and strengths of the students;**
 - (b) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural learning needs; and**
 - (c) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural strengths.**
-

3. Duties of School Teams – Individual Student Support Plans

3. In carrying out its duties under subsection 43(5) of the Act, the school team shall

- (a) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural learning needs;**
 - (b) consider a student's intellectual, communication, linguistic, social, emotional, physical and behavioural strengths;**
-

13. Qualifications to Do Assessments

13. A person making a specialized assessment referred to in section 47 of the Act,

- (a) must be qualified to use and interpret assessment procedures and instruments that are culturally and linguistically appropriate having regard to the circumstances;**
 - (b) must be familiar with education in Nunavut; and**
 - (c) must have, or be willing to develop, an understanding of the approach to inclusive education in Nunavut and an understanding of Inuit values and how they relate to the assessment.**
-

25. Information on Lists

25. (1) The list established under subsection 51(5) of the Act showing potential chairpersons of review boards shall set out the following information for each person on the list:

- (a) the person's name and contact information; and**
- (b) the languages the person is able to use.**

25. (2) The list established under subsection 51(5) of the Act showing other potential members of review boards shall set out the following information for each person on the list:

- (a) the person's name and contact information;**
- (b) the languages the person is able to use;**
- (c) information indicating the extent to which the person satisfies the factors set out in subsection 28(2); and**
- (d) the person's area or areas of expertise.**

Dispute Resolution Regulations – Education Act, Nu. Reg. 012-2012

7. Language of Instruction

7. If a disagreement arises respecting a decision made by a committee appointed under subsection 27(5) of the *Language of Instruction Regulations*, the concerned person may request discussions facilitated by the department and subsections 5(2), (3), (4) and (5) apply with necessary modifications to the matter.

31. (3) List of Potential Chairpersons

31. (3) The list shall set out the following information for each person:

- (a) the person's name, community and contact information; and**
- (b) the languages the person is able to use.**

Consolidation of Early Childhood Program Regulations – Education Act, Nu. Reg. 012-2011

3. Consistency with Education Program

3. To make it easier for children who participate in a district education authority's early childhood program to begin school, the district education authority shall ensure that its early childhood program is consistent with the education program for its schools and a district education authority other than the Commission scolaire francophone shall also ensure that its early childhood program is consistent with its decisions under section 24 of the Act on languages of instruction and the bilingual education model or models to be followed.

5. Program Promotion

5. (1) A district education authority other than the Commission scolaire francophone shall use its best efforts to ensure that its early childhood program serves as many eligible children as possible while still making the best use of the available resources to promote fluency in the Inuit Language and knowledge of Inuit culture as required by section 17 of the Act.

5. (2) The Commission scolaire francophone shall use its best efforts to ensure that its early childhood program serves as many eligible children who are the children of rights holders under subsection 156(1) of the Act as possible while still making the best use of the available resources to promote fluency in the French language and knowledge of francophone culture as required by section 17 of the Act as modified by subsection 168(7) of the Act.

6. How Program May Be Provided

6. A district education authority may comply with section 17 of the Act

(a) by providing the entire early childhood program itself; or

(b) by providing support in the form of staff, funding or other resources to a third party to supply

(i) the Inuit Language or Inuit culture component of the program in the case of a district education authority other than the Commission scolaire francophone, or

(ii) the French language or francophone culture component of the program in the case of the Commission scolaire francophone.

[Family Support Orders Enforcement Act, S.Nu. 2012, c. 16](#)

Part III – Additional Enforcement Remedies

Garnishment Proceedings

23. (4) Recognition of extraterritorial summons

23. (4) The Clerk shall issue a garnishee summons on the filing of a garnishee summons that

[...]

(c) is written in or accompanied by a sworn or certified translation into one of the Official Languages of Nunavut.

[Guardianship and Trusteeship Act, S.N.W.T. \(Nu\) 1994, c. 29](#)

Guardianship

Guardianship Order

3. (1) Explanation of proceedings

3. (1) The person applying under subsection 2(1) shall, before the application is made, explain the application and proceedings to the person in respect of whom the application is made.

3. (2) Understanding of explanation

3. (2) The person applying under subsection 2(1) satisfies the requirement in subsection (1) if he or she explains the matter to the best of his or her ability, whether or not the person receiving the explanation understands it.

3. (3) Language rights

3. (3) Where the person in respect of whom the application is made does not speak or understand the same language as the person applying, the person applying shall arrange for a suitable interpreter to provide an oral interpretation of the explanation required by subsection (1).

4. (1) Application by petition

4. (1) An application for an order appointing a guardian must be made by petition.

4. (2) Persons entitled to copy of application

4. (2) The person applying under subsection 2(1) shall, at least 10 days before the date the application is to be heard, serve a copy of the application and the report prepared under subsection 2(2) on

(a) the person in respect of whom the application is made;

(b) the person who is

(i) the nearest relative of the person in respect of whom the application is made, or

(ii) if the nearest relative is the applicant, the next nearest relative of the person in respect of whom the application is made;

(c) the person proposed as the guardian of the person in respect of whom the application is made, if he or she is not the applicant or the nearest relative;

(d) the person in charge of the residence of the person in respect of whom the application is made, where applicable;

(e) the Public Guardian, if he or she is not the applicant or the person served under paragraph (c);

(f) any trustee of the person in respect of whom the application is made, if he or she is not the applicant or a person served under another paragraph of this subsection;

(g) the Public Trustee, if he or she is not the applicant or the person served under paragraph (f); and

(h) any other person whom the Court directs be served.

4. (3) Language of report

4. (3) Where the person in respect of whom the application is made does not read, speak or understand the language in which the report prepared under subsection 2(2) is written, the person applying under subsection 2(1) shall arrange for a suitable interpreter to provide an oral interpretation of the report before the hearing takes place.

12. (3) Explanation

12. (3) A guardian shall explain the nature of the guardian's powers and duties to the represented person.

[...]

12. (5) Language rights

12. (5) Where the represented person does not speak or understand the same language as the guardian, the guardian shall arrange for a suitable interpreter to provide an oral interpretation of the explanation required by subsection (3).

Duties of Trustee

43. (1) Duties of trustee

43. (1) A trustee is a fiduciary and shall exercise his or her powers and perform his or her duties diligently, honestly and in good faith for the benefit of the represented person.

43. (2) Explanation

43. (2) A trustee shall explain the nature of the trustee's powers and duties to the represented person.

43. (3) Understanding of explanation

43. (3) A trustee satisfies the requirement in subsection (2) if he or she explains the nature of his or her powers and duties to the best of his or her ability, whether or not the represented person understands the explanation.

43. (4) Language rights

43. (4) Where the represented person does not speak or understand the same language as the trustee, the trustee shall arrange for a suitable interpreter to provide an oral interpretation of the explanation required by subsection (2).

Guardianship and Trusteeship Forms Regulations – Guardianship and Trusteeship Act, N.W.T. Reg. (Nu) 049-97

Schedule – Form 1 (Section 1)

In the Supreme Court of the Northwest Territories

In the Matter of the *Guardianship and Trusteeship Act*, S.N.W.T. 1994, c.29

And in the Matter of an Application for an Order for the Appointment of a Guardian and / or a Trustee of

Assessment Report

II. ASSESSMENT INFORMATION

1. Physical Assessment

[...]

b) Communication

Language of Communication:

Primary Secondary

Chipewyan _____

Cree _____

Dogrib _____

English _____

French _____

Inuinnaqtun _____

Inuktitut _____

Inuvialuktun _____

Gwich'in _____

North Slavey _____

South Slavey _____

Other _____

Is this person able to:

- i) Communicate verbally and be understood? Yes Limited No
- ii) Hear and understand communication from others? Yes Limited No
- iii) Make needs known? Yes Limited No
- iv) Express abstract ideas? Yes Limited No
- v) Read? Yes Limited No
- vi) Write? Yes Limited No
- vii) Use sign language or symbols? Yes Limited No
- viii) Communicate through other means? Yes Limited No

[Human Rights Act, S.Nu. 2003, c. 12](#)

Human Rights Act

Whereas it is just and consistent with Canada's international undertakings to recognize and make special provision for Inuit culture and values that underlie the Inuit way of life;

Part 2 – Prohibitions

Prohibited Grounds of Discrimination and Intent

7. (1) Prohibited grounds of discrimination

7. (1) For the purposes of this Act, the prohibited grounds of discrimination are race, colour, ancestry, ethnic origin, citizenship, place of origin, creed, religion, age, disability, sex, sexual orientation, marital status, family status, pregnancy, lawful source of income and a conviction for which a pardon has been granted.

7. (2) Affirmative action programs

7. (2) Nothing in this Act precludes any law, program or activity that has as its objective the amelioration of conditions of disadvantaged individuals or groups, including those who are disadvantaged because of any characteristic referred to in subsection (1), and that achieves or is likely to achieve that objective.

[...]

7. (6) Harassment

7. (6) No person shall, on the basis of a prohibited ground of discrimination, harass any individual or class of individuals

- (a) in the provision of goods, services, facilities or contracts;**
 - (b) in the provision of commercial premises or residential accommodation;**
 - (c) in matters related to employment; or**
 - (d) in matters related to membership in an employees' organization, trade union, trade association, occupational or professional association or society, employers' organization or co-operative association or organization.**
-

Employment

9. (1) Employment

9. (1) No person shall, on the basis of a prohibited ground of discrimination,

- (a) refuse to employ or refuse to continue to employ an individual or a class of individuals; or**
- (b) discriminate against any individual or class of individuals in regard to employment or any term or condition of employment, whether the term or condition was prior to or is subsequent to the employment.**

[...]

9. (6) Exception

9. (6) It is not a contravention of subsection (1) for an organization, society or corporation to give preference in employment to an individual or class of individuals if the preference is solely related to the special objects in respect of which the organization, society or corporation was established and the organization, society or corporation

- (a) is a not for profit organization, society or corporation; and**
 - (b) is**
 - (i) a charitable, educational, fraternal, religious, athletic, social or cultural organization, society or corporation, or**
 - (ii) an organization, society or corporation operated primarily to foster the welfare of a religious or racial group.**
-

10. (1) Employment applications and advertisements

10. (1) No person shall use or circulate any form of application for employment, publish any advertisement in connection with employment, or make any written or oral inquiry of an applicant that

(a) expresses or implies any limitation, specification or preference indicating discrimination against any individual or class of individuals on the basis of a prohibited ground of discrimination; or

(b) requires an applicant to provide any information about the applicant in respect of a prohibited ground of discrimination.

Organization and Associations

11. (1) Organizations and associations

11. (1) No employees' organization, trade union, trade association, occupational or professional association or society, employers' organization or co-operative association or organization shall, on the basis of a prohibited ground of discrimination, unless done in good faith and with reasonable justification,

(a) exclude any individual or class of individuals from full membership;

(b) expel, suspend or otherwise discriminate against any of its members; or

(c) discriminate against any individual in regard to his or her employment by an employer.

Goods, Services, Facilities or Contracts

12. (1) Goods, services, facilities or contracts

12. (1) No person shall, on the basis of a prohibited ground of discrimination, unless done in good faith and with reasonable justification,

(a) deny to any individual or class of individuals any goods, services or facilities that are customarily available to the public;

(b) deny to any individual or class of individuals the ability to enter into any contract that is offered or held out to the public generally;

(c) discriminate against any individual or class of individuals with respect to any goods, services or facilities that are customarily available to the public;

(d) discriminate against any individual or class of individuals with respect to the ability to enter into any contract that is offered or held out to the public generally; or

(e) discriminate against any individual or class of individuals with respect to any term or condition of any contract that is offered or held out to the public generally.

Tenancy

13. (1) Discrimination regarding tenancy

13. (1) No person shall, on the basis of a prohibited ground of discrimination, unless done in good faith and with reasonable justification,

(a) deny to any individual or class of individuals the right to occupy as a tenant any commercial premises or residential accommodation that is advertised or otherwise in any way represented as being available for occupancy by a tenant; or

(b) discriminate against any individual or class of individuals with respect to any term or condition of occupancy of any commercial premises or residential accommodation.

Publication

14. (1) Notices, signs, symbols, emblems and other representations

14. (1) No person shall, on the basis of a prohibited ground of discrimination, publish or display or cause or permit to be published or displayed any notice, sign, symbol, emblem or other representation that expresses or implies discrimination or any intention to discriminate, or incites or is calculated to incite others to discriminate, against any individual or class of individuals

(a) in the provision of goods, services, facilities or contracts;

(b) in the provision of commercial premises or residential accommodation;

(c) in matters related to employment; or

(d) in matters related to membership in an employees' organization, trade union, trade association, occupational or professional association or society, employers' organization or co-operative association or organization.

[Intercountry Adoption \(Hague Convention\) Act, S.N.W.T. \(Nu\) 1998, c. 19](#)

Schedule – Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption

Chapter IV – Procedural Requirements in Intercountry Adoption

Article 16

1. If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall –

[...]

b. give due consideration to the child's upbringing and to his or her ethnic, religious and cultural background;

Interjurisdictional Support Orders Act, S.Nu. 2002, c. 26

Part V – General

37. (1) Translation

37. (1) If the designated authority forwards an order or other document to a reciprocating jurisdiction that requires it be translated into a language other than French or English, the order or document shall be accompanied by

- (a) a translation of the order or document into the other language; and**
- (b) a certificate of the translator authenticating the accuracy of the translation.**

37. (2) Applicant to provide translation

37. (2) A person for whom an order or document is being forwarded under subsection (1) shall provide the translation and the translator's certificate to the designated authority.

37. (3) Reciprocating jurisdiction to provide translation

37. (3) An order or other document from a reciprocating jurisdiction that is written in a language other than the Inuit Language, English or French shall be accompanied by

- (a) a translation of the order or document into one of the Inuit Language, English or French; and**
- (b) a certificate of the translator authenticating the accuracy of the translation.**

S.Nu. 2008,c.17,s.46.

International Child Abduction Act, R.S.N.W.T. (Nu) 1988, c. I-5

Schedule – Convention on the civil aspects of international child abduction

Chapter V – General Provisions

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

International Commercial Arbitration Act, R.S.N.W.T. (Nu) 1988, c. I-6

Schedule A – Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Article IV

2. If the said award or agreement is not made in an official language of the country in which the award is relied upon, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

Article XVI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

Schedule B – UNCITRAL Model Law on International Commercial Arbitration

(As adopted by the United Nations Commission on International Trade Law on June 21, 1985)

Chapter V. – Conduct of Arbitral Proceedings

Article 22. Language

(1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

Chapter VIII. – Recognition and Enforcement of Awards

Article 35. Recognition and enforcement

(1) An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the competent court, shall be enforced subject to the provisions of this article and of article 36.

(2) The party relying on an award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy thereof, and the original arbitration agreement referred to in article 7 or a duly certified copy thereof. If the award or agreement is not made in an official language of this State, the party shall supply a duly certified translation thereof into such language.

**Consolidation of International Interests in Mobile Aircraft Equipment Act,
S.Nu. 2011, c. 5**

Schedule 1 – Convention on International Interests in Mobile Equipment

Chapter XIV – Final Provisions

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

Schedule 2 – Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment

Chapter VI – Final Provisions

DONE at Cape Town, this sixteenth day of November, two thousand and one, in a single original in the English, Arabic, Chinese, French, Russian and Spanish languages, all texts being equally authentic, such authenticity to take effect upon verification by the Joint Secretariat of the Conference under the authority of the President of the Conference within ninety days hereof as to the conformity of the texts with one another.

International Sale of Goods Act, R.S.N.W.T. (Nu) 1988, c. I-7

Schedule 1 – United Nations Convention on Contracts for the International Sale of Goods

Part IV – Final Provisions

Article 101

DONE at Vienna, this eleventh day of April, one thousand nine hundred and eighty, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.

Schedule 2 – Convention on the Limitation Period in the International Sale of Goods

Part IV – Final Clauses

Article 46

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

Schedule 3 – Convention on the Limitation Period in the International Sale of Goods as Amended by the Protocol Amending the Convention on the Limitation Period in the International Sale of Goods

Part IV – Final Clauses

Article 46

The original of this Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

[Interpretation Act, R.S.N.W.T. \(Nu\) 1988, c. I-8](#)

Construction

28. (1) General definitions

28. (1) In an enactment,

[...]

"Official Languages" means Official Languages as defined in the *Official Languages Act*; (*langues officielles*)

[Jury Act, R.S.N.W.T. \(Nu\) 1988, c J-2](#)

Persons Qualified to Serve as jurors

4. Persons qualified as jurors

4. Subject to this Act, every person who

- (a) has attained the age of 18 years,
- (b) is a Canadian citizen or permanent resident of Canada, and
- (c) is able to speak and understand an Official Language,

is qualified to serve as a juror in any action or proceeding that may be tried by a jury in Nunavut.

R.S.N.W.T. 1988,c.125(Supp.),s.2; S.N.W.T. 1995,c.29,s.2; S.Nu. 2008,c.19,s.5(3).

ANNOTATIONS

[R. v. Kaunak](#), 1997 CanLII 4535 (NWT CA)

[2] The question to be decided here, and which is raised on the evidence, is the course to be followed when translation services are agreed by counsel to have been confusing, inaccurate, in error and, in some instances, completely wrong.

[3] It is not disputed that the jury was properly selected pursuant to the provisions of the *Criminal Code*, and the *Jury Act* of the Northwest Territories, R.S.N.W.T. 1988, c. J-2 as amended.

[...]

[6] The deponents of the affidavits relied upon by the Appellant Crown propose that if there is a re-trial, all jurors should be English-speaking. We are not satisfied, however, that the affidavit evidence leads to the conclusion that concepts such as reasonable doubt, which are contained in any jury charge, are not capable of being translated into Inuktitut.

[7] With all respect to the makers of the affidavits, the affidavits filed do not persuade us that: 1) the deponents have sufficient experience with interpretation and jury trials, or, 2) that the deponents are saying that the concepts cannot be translated into Inuktitut.

[...]

[13] It is noted as well that there has been no attack on the provision of the *Jury Act* which qualifies as jurors those who are able to speak and understand only an Official language other than English. And, as counsel for the Appellant candidly admitted, the Crown has not sought on a regular basis, if at all, to prevent potential jurors who speak and understand only Inuktitut from serving as jurors in criminal trials that have taken place since the problem in this case came to light.

[14] Not being satisfied on the evidence before the Court that the legal concepts in question cannot be properly translated into Inuktitut, we would order a new trial, to take place before a jury properly selected in accordance with the *Criminal Code* and the *Jury Act*.

[15] In our view, because of the translation problems encountered in this case, the interests of justice require a new trial. We do not understand the Appellant's position to be that the appeal should be dismissed unless this court is prepared to order that only English-speaking jurors be selected for the new trial. However, even if the Crown's position may be viewed that way, and even if we had the power to make that order, which we doubt, we would not make the order on the affidavit evidence presented to us. The Crown's position does not change the fact that the interests of justice require a new trial.

[16] Any attempt to correct the complained of failure of the translation service to fairly interpret the proceedings is a matter to be addressed by either the executive branch of government or the legislative branch. Indeed, it is entirely possible that Crown and defence counsel, working conscientiously to a conclusion satisfactory to the interests of all, could find a way or craft a way in which translation services can be made effective and, in the circumstances of the case at bar, made understandable to persons who speak only the Inuktitut language, or a language other than English or French. This Court should not pre-suppose that such is impossible.

[17] Translation for the new trial may depend on where the trial is held and what interpretation services are available to the court at the time the new trial takes place. Any issues relating to translation and the selection of jurors are, in our view, issues which should be addressed before the trial judge.

[18] Accordingly, with the greatest respect for the contrary view of Berger, J.A. with respect to the disposition of the appeal, we order the entry of fresh evidence, being the affidavits filed, grant leave to appeal, allow the appeal, and order a new trial.

N.B. – Although this judgment interprets the Northwest Territories *Jury Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation and the wording of the Nunavut *Jury Act* remains similar to that of the Northwest Territories *Jury Act*.

HMTQ v. Beaverho, 2009 NWTSC 21 (CanLII)

[4] The arguments raised in this matter implicate the language provisions of the *Jury Act*, R.S.N.W.T. 1988, c. J-2, and the practices of this court with respect to the setting of the venue for criminal jury trials and the selection of jurors.

Relevant Statutory Provisions

[5] To understand the issues raised on this application, it is necessary to set out certain statutory provisions regarding jury service in the Northwest Territories. I will comment on these further in my reasons.

[6] First, the *Official Languages Act*, R.S.N.W.T. 1988, c. O-1, stipulates, in section 4, eleven official languages for the Northwest Territories (English, French and nine aboriginal languages: Chipewyan, Cree, Gwich'in, Inuinnaqtun, Inuktitut, Inuvialuktun, North Slavey, South Slavey and Tłıchǝ). Section 9 provides that any person may use any of these official languages in court.

[7] The *Jury Act*, in section 4, sets out the qualifications for jury service:

4. Subject to this Act, every person who

(a) has attained the age of 18 years,

(b) is a Canadian citizen or permanent resident of Canada, and

(c) is able to speak and understand an Official Language,

is qualified to serve as a juror in any action or proceeding that may be tried by a jury in the Territories

[8] The eligibility to serve on a jury for people who do not speak either English or French, but do speak one of the other official languages of the Northwest Territories, is unique in Canada (with the exception of Nunavut which adopted all Northwest Territories laws upon its creation in 1999).

[...]

Language

[40] The defence submits that the accused has a right to have unilingual Tłıchʔ speakers available for selection as jurors. This requires me to consider whether the qualification criteria set out in s. 4 of the *Jury Act* (quoted earlier) is a right of the accused, or a right of the citizens of the Northwest Territories, or both. To do this it is necessary to examine the history and purpose of this provision.

[41] The recognition of the nine aboriginal languages (listed in s. 4 of the Official Languages Act) as "official languages" came about in 1984. Subsequently, in 1986, the Legislative Assembly passed an amendment to the *Jury Act* as follows:

5.2 An aboriginal person who does not speak and understand either the French language or the English language, but who speaks and understands an aboriginal language as defined in the Official Languages Act and is otherwise qualified under this Act, may serve as a juror in any action or proceeding that may be tried by a jury in the Territories,

[42] Prior to this, the *Jury Act* required all jurors to speak either English or French. The purpose behind this amendment was explained by the then territorial Minister of Justice:

In the Northwest Territories aboriginal people are in the majority and in the majority of cases aboriginal persons are the accused. If we are to recognize the principle that a person is entitled to be tried by his or her peers, then surely we must do all that we can to make it possible in the Northwest Territories for aboriginal persons to sit on the jury. (Hansard, Northwest Territories, 7th Session, 10th Assembly, p. 1119)

[43] At that time, the Northwest Territories comprised an area of over 1.3 million square miles (combining both what is now Northwest Territories and Nunavut) with a population that was 65% aboriginal (the current population of the present Northwest Territories is approximately 50% aboriginal).

[44] The amendment was not proclaimed in force until it was studied by the Northwest Territories Committee on Law Reform. The amendment was viewed as an attempt to increase community involvement by allowing unilingual aboriginals to take part in the jury process. It was an attempt to increase the representativeness of juries. The amendment was supported by a wide array of aboriginal organizations.

[45] The Final Report of the Committee recommended, however, that the amendment be changed so as to replace the racial classification ("An aboriginal person who does not speak and understand either . . .") with a purely linguistic test. The Committee thought it repugnant to our conception of equality to have legislation reference race as the distinguishing characteristic. As a result of this recommendation, the amendment was changed to the current formulation ("every person who . . . is able to speak and understand an Official Language"). The amendment then came into force in 1988.

[46] As I noted previously, this provision is unique. Early on it was viewed as a measure aimed to benefit and preserve cultural pluralism in the north: see *R. v. Fatt*, [1986] N.W.T.R. 388 (N.W.T.

S.C.). This follows the commitment to the preservation and enhancement of Canada's multicultural heritage articulated by s. 27 of the *Charter of Rights and Freedoms*. One appellate judge described the purpose of this provision as follows (in *R. v. Kaunak*, [1997] N.W.T.J. No. 71 (N.W.T. C.A.), per Berger J.A. at paras. 29-30):

One can understand the geographic and cultural reasons for these legal provisions. The Northwest Territories covers a vast land area and includes a diverse group of Canadians of aboriginal descent . . .

To assemble a jury in some of the sparsely-settled, remote communities in the Northwest Territories, it may be necessary to include unilingual aboriginal-language speaking persons. This is to say nothing of the important Charter aboriginal and multicultural rights those persons have to participate in the legal process, which are not issues before this Court. [...].

[47] When I consider these sources I conclude that s. 4 of the *Jury Act* provides a right to the citizens of the Northwest Territories - the pool of potential jurors - as opposed to providing a right to any particular accused person. Any person speaking an "official language" is eligible to serve on a jury. That language may be any one of the eleven official languages. There is nothing to suggest that an accused is entitled to have any particular language speaker on the jury.

[48] The purpose of the enactment was to increase and facilitate the opportunity for aboriginal citizens to serve on a jury. It is a participation right. It does not translate into a right of the accused to have a certain linguistic group on the jury, no more than the right to have a jury composed of a certain race or class.

[49] There is also a practical consideration, one that is illustrated in this case.

[50] In *Whatì*, out of the 86 people who were excused from jury selection, only six were excused because of language. If those six had not been on the original list, the jury panel would not have had any unilingual Tłıchǝ speakers. It can hardly be said that the accused would then have had the right to have further potential jurors summonsed, further jurors who spoke only Tłıchǝ. His only recourse would have been to challenge, if he could, the selection process used by the Sheriff. But that attack would have had to have been based on some irregularity in the selection process. There is nothing in the legislation to compel the Sheriff to select unilinguals. The only requirement is that the selection be random.

[51] The only language rights enjoyed by an accused person, in terms of the composition of the court that tries the accused, are those found in the *Criminal Code*. Section 530 provides a right to the accused to have his or her trial conducted in his or her "official language". But that refers to one of the official languages of Canada, i.e., French or English.

[52] There is one more practical consideration, also illustrated by this case.

[53] In this case, those potential jurors who could not speak English were excused because the court did not have available two qualified interpreters. Court staff had lined up two interpreters but only one showed up at jury selection. As a result, it was my opinion that we could not select non-English speakers. The burden of interpreting a complete trial is too heavy for only one interpreter, no matter how qualified, to bear.

[54] In its review of the *Jury Act* amendment in 1986, the Committee on Law Reform also recognized the need to develop a trained corps of legal interpreters. It was necessary to develop acceptable terminology, in all the official aboriginal languages, so as to translate English (and French) legal terms. There were no common translations before this. And, since it is the

Government of the Northwest Territories that has the responsibility for the administration of justice, it fell to the government to meet this need.

[55] The territorial Department of Justice instituted a legal interpreter training program in 1988. By 1991, a corps of interpreters had been "certified" as court interpreters. There were full-time staff persons responsible for co-ordinating the engagement of interpreters for the courts. In 1995, funding for the program was diminished and responsibility for the program was transferred to Arctic College. The program was eventually terminated in 1998.

[56] Since 1998, there has been no training of legal interpreters. Even for those aboriginal language speakers who are willing to provide interpretation services, there are no resources to develop skills specific to the courtroom. Court staff are required to track down interpreters. There is much competition for the services of skilled interpreters from private industry. So even when the court wants to utilize the provisions of the *Jury Act* to increase a potential jury pool it is often impossible to do so because of a lack of interpreters.

[57] This situation was foreshadowed in a comment found in a 1995 report from the Commissioner of Official Languages for Canada, "The Equitable Use of English and French Before the Courts in Canada", quoted in *Kaunak* (at para. 33):

The issues relevant to the use of Aboriginal languages in the courts of the Northwest Territories are of a quite different order [as compared with the issues surrounding the use of the French language]. No reasonable prospect exists at the moment for providing judges or prosecutors who speak any of the Aboriginal languages fluently. The most pressing concern is the training and availability of interpreters who can assist a court to understand the testimony of witnesses or accused persons who speak an Aboriginal language. Until recently, the territorial Department of Justice maintained a Legal Interpreting Program (fully funded under the Canada-Northwest Territories Co-operation Agreement) whose aim was to train Aboriginal-language speakers as court interpreters. Without reliable interpretation, Aboriginal people appearing before the Territorial Courts face serious disadvantage. Moreover, a language barrier deepens the impression that the court system is foreign and not really an integral part of one's community. The need for the assistance of interpreters is apparent in the number of hours of interpretation logged during the fiscal year 1993-94, which ranges from 1,324 hours of Inuktitut, 366 of Dogrib, 265 of North Slavey, to 176 of Chipewyan. Cuts in funding under the Co-operation Agreement for French and Aboriginal Languages have affected this valuable program. In addition to decreased funding, responsibility for this program has been transferred to the Arctic College in Fort Smith and Iqaluit and is no longer assumed by the territorial Department of Justice,

[58] So, even if a trial is held in an aboriginal community, there is no guarantee that unilingual aboriginal speakers can be chosen as jurors if qualified interpreters are not available. This is something beyond the ability of the court to remedy. It is the government that must address this problem because, without interpreters, the purpose of s. 4 of the *Jury Act* is rendered meaningless.

[59] For these reasons, I conclude that the accused does not have a right to have unilingual Tłıchǵ speakers on the jury. The ability to select unilinguals is certainly desirable. It is something that the citizens of the Northwest Territories should expect. But it is not something the accused can demand. It is not necessary to have unilinguals on a jury in order for the accused to have a fair trial.

[60] All this however is not to forget that, regardless of whether unilingual aboriginals are on a jury, there is often a need for competent interpretation for accused persons and witnesses. In

such a situation the issue does become a Charter right by virtue of s. 14 of the Charter, which provides that a party or witness who does not understand or speak the language in which the proceedings are conducted has the right to the assistance of an interpreter. The failure to provide adequate interpretation in such circumstances could lead to a stay of proceedings.

N.B. – Although this judgment interprets the Northwest Territories *Jury Act*, we have included it here, as pursuant to s. 29 of the *Nunavut Act*, the legislation in force in the Northwest Territories was duplicated to the extent that they could apply in relation to Nunavut at the time of its creation and the wording of the *Nunavut Jury Act* remains similar to that of the Northwest Territories *Jury Act*. It should be noted, however, that although Tłıchǝ is an official language of the Northwest Territories, it is not an official language of Nunavut.

Selection of Jury Panel

12. (1) Notice to Sheriff from clerk

12. (1) On receipt of a notice that a jury will be required for the sittings of the Court, the Clerk shall, within a reasonable time before the day fixed for the commencement of the sittings, notify the Sheriff in writing of the place, the date and the time at which a jury panel shall be required to attend, whether the trial will be conducted in English or French and any other relevant information and shall issue to the Sheriff a written order in the prescribed form.

12. (2) Jury panel selection

12. (2) On receipt of the written order, the Sheriff shall select a jury panel in accordance with the regulations and certify the regularity of the selection process.

R.S.N.W.T. 1988,c.63(Supp.),s.5; S.Nu. 2008,c.19,s.5(3); S.Nu. 2011,c.10,s.20(5)(a).

Justices of the Peace Act, S.N.W.T. (Nu) 1998, c. 34 s 2

2.2 (2) Criteria for recommendation

2.2 (2) In determining whether a person is qualified for appointment as a justice of the peace, the Committee's consideration shall include the person's:

- (a) knowledge of Inuit societal values;**
- (b) knowledge of the Inuit language; and**
- (c) knowledge of the community in which the candidate would serve if appointed.**

Liquor Act, R.S.N.W.T. (Nu) 1988, c. L-9

Plebiscite Concerning Restriction or Prohibition

48. (1) Plebiscite

48. (1) Where at least 20 qualified voters in a settlement, municipality or area petition the Minister to hold a plebiscite to determine whether the consumption, possession, purchase, sale or transport of liquor ought to be restricted or prohibited in the settlement, municipality or area, the Minister may order that a plebiscite be held to determine the wishes of the qualified voters of the settlement, municipality or area.

[...]

48. (5) Questions

48. (5) The questions on a ballot used in a plebiscite under subsection (1) must

[...]

(b) be translated into languages or dialects appropriate to the settlement, municipality or area.

R.S.N.W.T. 1988,c.101(Supp.),s.5; S.N.W.T. 1991-1992,c.38,s.15; S.N.W.T. 1994,c.19,s.4,5; S.Nu. 2006,c.9,s.2.

Local Authorities Elections Act, R.S.N.W.T. (Nu) 1988, c. L-10

Part I – Conduct of elections

Language Option

16. (1) Definition

16. (1) In this section, "Official Language" means an Official Language as defined in the *Official Languages Act*.

16. (2) Use of Official Languages

16. (2) A local authority that considers it necessary or desirable may authorize the use of any Official Language, in addition to English, for any ballot or form required for an election.

R.S.N.W.T. 1988,c.125(Supp.),s.3.

Marriage Act, R.S.N.W.T. (Nu) 1988, c. M-4

Solemnization of Marriage

12. (1) Where party does not understand language used

12. (1) No member of the clergy or marriage commissioner shall solemnize a marriage where either of the contracting parties does not speak or understand the language in which the ceremony is to be performed unless an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

12. (2) Where party does not understand language and marriage performed under section 2.1

12. (2) Where a marriage is performed according to the rites, usages and customs of a religious body referred to in section 2.1 and either of the contracting parties does not speak or understand the language in which the ceremony is to be performed, a person registered under subsection 2.1(1) shall ensure that an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

R.S.N.W.T. 1988,c.104(Supp.),s.9.

Marriage Licences

34. (1) Reading licence to parties

34. (1) An issuer shall satisfy himself or herself that both parties to the intended marriage fully understand the contents of a licence and shall read over the form of licence to each of the parties separately.

34. (2) Interpreter

34. (2) Where either of the parties to the intended marriage does not understand English, an independent interpreter shall be employed to explain the contents of the licence to that party.

[Mental Health Act, R.S.N.W.T. \(Nu\) 1988, c. M-10](#)

Interpretation

1. Definitions

1. In this Act,

[...]

"Inuit Language" means Inuit Language as defined in the *Inuit Language Protection Act*; (*langue inuit*)

Involuntary Psychiatric Assessment

7. (1) Application

7. (1) This section applies notwithstanding any other provision of this Act.

7. (2) Consultation with elder

7. (2) Where a medical practitioner is conducting

(a) a psychiatric assessment under section 8, 9, 10, 11 or 12, or

(b) an examination under section 13, of an Inuk who

(c) does not speak English or French fluently, and

(d) speaks the Inuit Language fluently,

the medical practitioner shall, if practicable, and with the consent of the Inuk where that person is mentally competent to give a valid consent,

(e) consult with an elder who is from the same community and of the same cultural background as the Inuk and who knows the Inuk, and

(f) obtain the opinion of the elder referred to in paragraph (e) as to whether the Inuk is suffering from a mental disorder of a nature or quality that will likely result in

(i) serious bodily harm to that Inuk,

(ii) serious bodily harm to another person, or

(iii) imminent and serious physical impairment of that Inuk.

Treatment

19.1 (1) Examination to determine mental competence

19.1. (1) Before administering medical or psychiatric treatment to a voluntary or involuntary patient admitted or detained in accordance with this Act, the medical practitioner shall examine the patient to determine whether the patient is mentally competent to give a valid consent to the treatment.

19.1 (2) New examination

19.1 (2) A new examination under subsection (1) is required each time that there is to be a significant change in the treatment administered to the patient.

19.1 (3) Finding of mental incompetence

19.1 (3) Where, after an examination made under subsection (1), the medical practitioner is of the opinion that the patient is not mentally competent to give a valid consent, the medical practitioner shall

(a) make a finding of mental incompetence by completing the prescribed form and filing the form with the person in charge;

(b) inform the patient of the finding of mental incompetence and of his or her right to have the finding reviewed under subsection 26.1(1); and

(c) choose the substitute consent giver in accordance with section 19.2.

19.1 (4) Language of information

19.1 (4) Where a patient does not speak or understand the same language as the medical practitioner, the person in charge shall ensure that the information provided to the patient under paragraph (3)(b) is explained to the patient in a language that the patient understands.

R.S.N.W.T. 1988,c.64(Supp.),s.9.

19.2 (4) Information to patient

19.2 (4) Where a finding of mental incompetence is made under subsection 19.1(3), the medical practitioner shall inform the patient of the person who, according to the priorities established in subsection (1), would have the authority to consent on behalf of the patient.

19.2 (7) Completion and filing of form

19.2 (7) After choosing a substitute consent giver under subsection (5), the medical practitioner shall

(a) complete the prescribed form, stating the facts on which the decision is based;

(b) file the completed form with the person in charge;

(c) inform the patient of the person who will be acting as the substitute consent giver for the patient; and

(d) inform the patient of his or her right to have the decision reviewed under subsection 26.1(2).

19.2 (8) Language of information

19.2 (8) Where a patient does not speak or understand the same language as the medical practitioner, the person in charge shall ensure that the information provided to the patient under subsection (4) and paragraphs (7)(c) and (d) is explained to the patient in a language that the patient understands.

R.S.N.W.T. 1988,c.64(Supp.),s.9; S.Nu. 2011,c.25,s.15(3).

19.4 (3) Statement by substitute consent giver

19.4 (3) A person described in paragraphs 19.2(1)(c) to (h) shall not act as a substitute consent giver on behalf of a patient unless the person makes a written statement in the prescribed form indicating that he or she

(a) has been in personal contact with the patient during the preceding 12 months and has a friendly relationship with the patient;

(b) believes that the patient does not object to him or her acting as the substitute consent giver; and

(c) will act in accordance with subsection (7).

19.4 (4) Duty of medical practitioner

19.4 (4) Subject to subsection (5), a medical practitioner shall not accept the consent of a substitute consent giver who has not signed the statement referred to in subsection (3).

19.4 (5) Statement of medical practitioner

19.4 (5) Where it is not possible for the medical practitioner to obtain the written statement referred to in subsection (3), the medical practitioner shall explain the requirements of subsection (3) to the proposed substitute consent giver and where the medical practitioner is of the opinion that the proposed substitute consent giver meets the requirements of subsection (3), he or she shall make a signed statement in the prescribed form to that effect.

19.4 (6) Language of explanation

19.4 (6) Where a proposed substitute consent giver does not speak or understand the same language as the medical practitioner, the person in charge shall ensure that the explanation required under subsection (5) is provided to the proposed substitute consent giver in a language that he or she understands.

19.5 (3) Notice to patient

19.5 (3) A medical practitioner shall, within 48 hours after a person is admitted or detained in accordance with this Act, give the patient written notice of the right to appoint a representative.

19.5 (4) Transitional

19.5 (4) As soon as possible after this section comes into force, the person in charge shall give each patient in the hospital notice in the prescribed form, informing the patient of

(a) the right to appoint a representative; and

(b) the powers and responsibilities of a representative under this Act.

[...]

19.5 (8) Language of notice

19.5 (8) Where a patient does not speak or understand the same language as the medical practitioner or the person in charge, the person in charge shall ensure that the notice provided to the patient under subsections (3) and (4) is explained to the patient in a language that the patient understands.

R.S.N.W.T. 1988,c.64 (Supp.),s.9.

Rights of a Patient

35. (1) Reason for admission and explanation of need for care and treatment

35. (1) A medical practitioner shall inform a voluntary or involuntary patient and the patient's substitute consent giver orally, in a language which the patient and the patient's substitute consent giver can understand, of the reason for the admission of the patient to a hospital and the need for care and treatment before admitting the patient to a hospital.

35. (2) Written notice

35. (2) A medical practitioner shall give an involuntary patient and the substitute consent giver a written notice, within 48 hours after the examination or assessment under section 8, 9, 10, 11, 12 or 13, stating

(a) the authority for the detention of the patient; and

(b) the right of the patient to consult counsel, to apply to the Nunavut Court of Justice for a review of the decision to detain the patient and to appeal the decision of the Nunavut Court of Justice to the Court of Appeal.

35. (3) Interpreter

35. (3) Where the voluntary or involuntary patient does not speak or understand the same language as the medical practitioner, the hospital shall obtain a suitable interpreter and provide the reason for the admission of the patient to a hospital and the need for care and treatment referred to in subsection (1) or the written notice referred to in subsection (2) in the language spoken by the voluntary or involuntary patient and the patient's substitute consent giver.

35. (4) Where person cannot comprehend

35. (4) Despite subsections (1) and (2), where an involuntary patient is not in a state to comprehend the reason for admission to a hospital and the need for care and treatment, or the written notice, the hospital shall, having regard to the circumstances in each case, ensure that the reason or written notice, as the case may be, is given at the first reasonable opportunity once the involuntary patient is able to comprehend it.

R.S.N.W.T. 1988,c.64(Supp.),s.22,23,24; S.Nu. 2012,c.17,s.19(20).

36. (1) Posting of rights

36. (1) The rights of a patient set out in section 35, this section and in sections 37 to 42 shall be conspicuously posted in a hospital in places accessible to voluntary and involuntary patients.

36. (2) Explanation of notice

36. (2) Where a patient does not understand the language of the notice posted under subsection (1), the hospital shall ensure that the patient's rights are explained to the patient in a language the patient understands.

Mental Health Regulations – Mental Health Act, N.W.T. Reg. (Nu) 018-92

14. (1) Where a patient asks for assistance in applying for a review under section 26 or 26.1 of the Act, the person in charge shall, within two days of the request, provide reasonable assistance in

- (a) applying for legal aid;
- (b) completing Form 23;
- (c) completing Form 4; and
- (d) filing documents with the appropriate court.

14. (2) Where a patient who is not fluent in the language spoken in the hospital wishes to apply for review under section 26 or 26.1 of the Act, the person in charge shall ensure that the assistance referred to in subsection (1) is provided to the patient in a language the patient understands.

Motor Vehicles Act, R.S.N.W.T. (Nu) 1988, c. M-16

Examinations

76. (1) Illiterate applicant

76. (1) Where an examiner is satisfied that an applicant for a theoretical examination is illiterate, the examiner may administer an oral theoretical examination in place of a written theoretical examination.

76. (2) Non-English speaking applicant

76. (2) Where the examiner is satisfied that an applicant for a theoretical or practical examination does not understand or speak English, the examiner may require the examination to be conducted with the assistance of an interpreter approved by the examiner.

76. (3) Assistance by interpreter

76. (3) No interpreter referred to in subsection (2) shall provide the person being examined with an answer to a question on an examination.

Nunavut Act, S.C. 1993, c. 28

Legislative Powers

23. (1) Legislative powers

23. (1) Subject to any other Act of Parliament, the Legislature [of Nunavut] may make laws in relation to the following classes of subjects:

[...]

(n) the preservation, use and promotion of the Inuktitut language, to the extent that the laws do not diminish the legal status of, or any rights in respect of, the English and French languages;

N.B. – Although the above law is a federal law, we have included it in the chapter on Nunavut legislation given its role in the creation of the territory of Nunavut.

Part II – General

Official Languages

38. Official languages ordinance

38. The law of the Legislature that, under subsection 29(1), is the duplicate of the ordinance of the Northwest Territories entitled the Official Languages Act may not be repealed, amended or otherwise rendered inoperable by the Legislature without the concurrence of Parliament by way of a resolution, if that repeal, amendment or measure that otherwise renders that law inoperable would have the effect of diminishing the rights and services provided for in that ordinance as enacted on June 28, 1984 and amended on June 26, 1986.

Nunavut Elections Act, S.Nu. 2002, c. 17

Part I – General Provisions

Purpose of this Act

1. (1) Main purpose

1. (1) The purpose of this Act is to establish a regime for the election of members of the Legislative Assembly that promotes the meaningful exercise of the democratic rights and freedoms of the residents of Nunavut and the equality of opportunity to participate in determining the outcome of elections and the formation of the government.

1. (2) Basic principles

1. (2) To achieve its purpose, this Act revises and consolidates the legislation respecting elections on the basis of the following principles:

[...]

(e) information at every stage of the election process should be in the Official Languages of Nunavut;

[...]

(h) the rules governing elections should incorporate flexibility to address unique circumstances in Nunavut as they arise, be they geographic, demographic, linguistic, or otherwise, in addition to new technologies; and

Official Languages

5. (1) Use of official languages

5. (1) The Official Languages of Nunavut apply in respect of each constituency at an election.

5. (2) Materials for translation

5. (2) The Chief Electoral Officer shall ensure that all election materials for public use must be provided to the returning officer in the Official Languages.

5. (3) Late transmission

5. (3) Where it is not possible to prepare and deliver a copy of a document in an Official Language within the required time, the Chief Electoral Officer shall ensure that it is delivered at the earliest possible time.

S.Nu. 2008,c.10,s.45(3),(4),(5).

6. (1) Languages of election officers

6. (1) Election officers should be appointed to represent the languages spoken in the community in which they will be performing their functions.

6. (2) Interpreters

6. (2) Where a deputy returning officer or poll clerk does not understand the language spoken by a voter, the deputy returning officer shall, where possible, appoint and swear in an interpreter, who shall translate communications between the deputy returning officer and the voter.

6. (3) Validity of election

6. (3) The failure to comply with any provision of this section shall not affect the validity of an election.

Constituencies

31. (1) Constituencies

31. (1) Nunavut is divided into 22 constituencies with the names set out in Part 1 of the Schedule. Each language version of those names is equally authoritative.

Part X – Offences and Punishment

Publication of Offences

241. Public information

241. The Chief Electoral Officer shall, in the Official Languages, take reasonable measures to inform the public, especially candidates and financial agents, what actions constitute offences under this Act.

S.Nu. 2008,c.10,s.45(6).

[Elections Regulations – Nunavut Elections Act, Nu. Reg. 025-2003](#)

13. (1) Declaration of Candidacy

13. (1) The declaration of candidacy for a candidate must contain the following:

[...]

(d) the name of the prospective candidate exactly as he or she wishes it to appear, in the official languages preferred by the candidate, in the order in which they are to be placed on the ballot;

[Plebiscite Act, S.Nu. 2013, c. 25](#)

Part I – General Provisions

Purpose of this Act

1. (1) Main Purpose

1. (1) The purpose of this Act is to establish a regime for the conduct of plebiscites that is consistent with the Nunavut Elections Act and promotes opportunities to participate in expressing popular opinion on issues of interest and concern to Nunavummiut.

1. (2) Basic principles

1. (2) To achieve its purpose, this Act revises and consolidates the legislation respecting plebiscites on the basis of the following principles:

[...]

(c) information at every stage of the plebiscite process should be in the Official Languages of Nunavut, including both Inuktitut and Inuinnaqtun;

[...]

(e) the rules governing plebiscites should incorporate flexibility to address unique circumstances in Nunavut as they arise, be they geographic, demographic, linguistic, or otherwise, in addition to new technologies; and

Official Languages

5. (1) Use of Official Languages

5. (1) The Official Languages of Nunavut apply in respect of a Nunavut-wide plebiscite.

5. (2) Same

5. (2) Where a plebiscite is not Nunavut-wide, the Official Languages of Nunavut that are indigenous to or spoken in the plebiscite area apply to the plebiscite.

5. (3) Materials for translation

5. (3) The Chief Electoral Officer shall ensure that all plebiscite materials for public use are provided to the returning officer in all languages applicable to the plebiscite at the same time.

5. (4) Late transmission

5. (4) Where it is not possible to prepare and deliver a copy of a document in a language within the required time, the Chief Electoral Officer shall ensure that it is delivered at the earliest possible time.

6. (1) Languages of plebiscite officers

6. (1) Plebiscite officers should be appointed to represent the languages spoken in the community in which they will be performing their functions.

6. (2) Interpreters

6. (2) Where a deputy returning officer or poll clerk does not understand the language spoken by a voter, the deputy returning officer shall, where possible, appoint and swear in an interpreter, who shall translate communications between the deputy returning officer and the voter.

6. (3) Validity of plebiscite

6. (3) The failure to comply with any provision of this section shall not affect the validity of a plebiscite.

Part X – Offences and Punishment

Publication of Offences

208. Public information

208. The Chief Electoral Officer shall, in the Official Languages, including both Inuktitut and Inuinnaqtun, take reasonable measures to inform the public, especially any registered groups in the plebiscite and their financial agents, what actions constitute offences under this Act.

Plebiscite Regulations – Plebiscite Act, N.W.T. Reg. (Nu) 011-92

37. Ballot Papers

37. (1) The form of the ballot paper is as set out in Form 1 of the Schedule.

37. (2) Where section 203 of the *Elections Act* applies to a plebiscite district so that the ballot papers to be used in that plebiscite district are printed in English, French and in the aboriginal language applicable to it, the question shall be printed side by side in each language and the spaces for the voter to mark one of the several options shall be below the question with the options in each language under or next to the appropriate space.

N.B. – This regulation is in force and enabled by a replaced statute (*Plebiscite Act*, R.S.N.W.T. (Nu) 1988, c P-8).

Public Service Act, S.Nu. 2013, c. 26

Part 2 – Management and Direction

5. (2) Responsibilities

5. (2) A deputy head shall, in the department or public body under the jurisdiction of the deputy head, promote

[...]

(f) the use of the Inuit language in the public service.

Part 3 – Recruitment and Appointment

6. (1) General principle of non-discrimination

6. (1) Except as provided in this section, no person may be discriminated against on the grounds of race, colour, ancestry, national or ethnic origin, citizenship, religion, religious creed, sex, age, marital status, family status, pregnancy, sexual orientation, a conviction for a criminal or summary conviction offence which is unrelated to the nature of the employment or intended employment of the person, or physical or mental disability, unless it is a reasonable and bona fide requirement for the position.

6. (2) Affirmative action

6. (2) Despite any other provision of this Act, the Minister may establish programs and issue directives that have as their object the improvement of employment conditions and knowledge, skills and experience of Inuit, having regard to the objectives of Article 23 of the Agreement, or the improvement of employment conditions and knowledge, skills and experience of individuals or groups identified on grounds referred to in subsection (1).

6. (3) Inuit employment policies

6. (3) The Minister shall establish programs and issue directives, including a Priority Hiring Policy, with respect to the recruitment, hiring, training and promotion of employees that facilitate the achievement of the objectives of Article 23 of the Agreement through

(a) the recruitment of Inuit; and

(b) career development and promotion of Inuit employees.

10. (2) Ranking of applicants

10. (2) In determining the comparative order of applicants' qualifications for a position, the following factors may be taken into account:

[...]

(d) knowledge of the Inuit language;

Reciprocal Enforcement of Judgments Act, R.S.N.W.T. (Nu) 1988, c. R-1

3. Where judgment is in a language other than English or French

3. Where a judgment sought to be registered under this Act is in a language other than the English or French language, an English language translation of the judgment shall be attached to the original, a certified copy or an exemplification of the judgment and, upon approval of the Court, the judgment shall be deemed to be in the English language.

R.S.N.W.T. 1988,c.111(Supp.),s.2.

Reciprocal Enforcement of Judgments (Canada U.k.) Act, R.S.N.W.T. (Nu) 1988, c. R-2

Schedule – Convention Between Canada and the United Kingdom of Great Britain and Northern Ireland Providing for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters

Part IV – Procedures

Article VI

4. The registering court may require that an application for registration be accompanied by

- (a) the judgment of the original court or a certified copy thereof;
- (b) a certified translation of the judgment, if given in a language other than the language of the territory of the registering court;
- (c) proof of the notice given to the defendant in the original proceedings, unless this appears from the judgment; and
- (d) particulars of such other matters as may be required by the rules of the registering court.

Article XIV

DONE in duplicate at Ottawa this 24th day of April, 1984 in the English and French languages, each version being equally authentic.

Consolidation of Representative for Children and Youth Act, S.Nu. 2013, c. 27

Representative for Children and Youth

2. (3) References in English and French

2. (3) The Nutaqqanut Makkuttunullu Kiggaqtuiji may be referred to in English as the Representative for Children and Youth and in French as the représentant de l'enfance et de la jeunesse or by such other names as may be given by the Commissioner on the recommendation of the Legislative Assembly.

2. (4) Change in title

2. (4) The Representative may recommend to the Legislative Assembly that his or her title be changed and make recommendations on what that title should be in all official languages.

Selection, Term of Office and Resignation

6. (1) Criteria for selection

6. (1) Before recommending the appointment of a person as the Representative, the Legislative Assembly shall consider the skills, qualifications and experience of the person, including his or her

(a) understanding of Inuit societal values, culture, language, traditions, beliefs and history;

Settlement of International Investment Disputes Act, S.Nu. 2006, c. 13

Schedule – Convention on the Settlement of Investment Disputes Between States and Nationals of Others States

Chapter X – Final Provisions

DONE at Washington, in the English, French and Spanish languages, all three texts being equally authentic, in a single copy which shall remain deposited in the archives of the International Bank for Reconstruction and Development, which has indicated by its signature below its agreement to fulfill the functions with which it is charged under this Convention.

Statute Revision Act, S.N.W.T. (Nu) 1996, c. 16

Part II – Revised Statutes of Nunavut, 2000

27. (1) Arrangements for preparation of Revised Statutes

27. (1) The Minister may make such arrangements and enter into such agreements relating to the preparation of the Revised Statutes as the Minister considers necessary.

27. (2) Arrangements for Inuktitut translation

27. (2) The Minister may make such arrangements and enter into such agreements as the Minister considers necessary for the translation into Inuktitut of such Acts within the Revised Statutes as the Minister considers should be so translated in view of their public importance.

S.N.W.T. 1998,c.31,Sch.J,s.10(a).

29. (1) Acts to be revised

29. (1) The Statute Revision Commissioner, in accordance with this Part, shall examine, arrange and revise the laws consolidated under section 28.1.

29. (2) Powers

29. (2) In the performance of the duties of the Statute Revision Commissioner under this Part, the Statute Revision Commissioner may

[...]

(n) make minor improvements in the language of the Acts as may be required to make the form of expression of an Act compatible with its expression in any other Official Language without changing the substance of any enactment;

N.B. – This provision formerly read: (n) make such minor improvements in the language of the Acts as may be required to make the form of expression of the Act in English or French more compatible with its expression in any other Official Language of Nunavut without changing the substance of any enactment. It was modified by the new *Official Languages Act*, S.Nu. 2008, c. 10, most of which came into force on April 1st, 2013.

Wildlife Act, S.Nu. 2003, c. 26

Part 1 – General Provisions

Interpretation

3. (1) Interpretation

3. (1) The Government of Nunavut, the NWMB [*Nunavut Wildlife Management Board*] and all persons and bodies performing functions under this Act and the courts shall interpret and apply this Act in accordance with the purpose, values and principles of this Act.

3. (2) The Inuit Language

3. (2) The Inuit Language, or the appropriate dialect of the Inuit Language, may be used to interpret the meaning of any guiding principle or concept of Inuit Qaujimajatuqangit used in this Act.

ANNOTATIONS

[Kadlak v. Nunavut \(Minister of Sustainable Development\)](#), 2001 NUCJ 1 (CanLII)

The Social and Legal Context of The Nunavut Land Claims Agreement:

[10] Before the coming of organized government, the Inuit lived in scattered camps in the remote regions of what is now the new Territory of Nunavut. They survived in this harsh environment through nomadic hunting activities. The Inuit have developed a close symbiotic relationship to the land, and all the creatures of the air, sea and land upon which they have traditionally depended as a people for their survival. The traditions of the hunt are an important focus of Inuit culture. Even today, Inuit language, art, diet and clothing celebrate the hunt and the animals of the hunt. The preservation of Inuit culture remains closely linked to this traditional way of life. The Inuit right to hunt is understandably the central focus of the Nunavut Land Claims Agreement. This is key to their social and cultural identity as a people.

Nunavut – Other Regulations

Consolidation of Personal Property Securities Regulations – Personal Property Security Act, Nu. Reg. 007-2001

20. Debtor (Enterprise) Name Information

20. (1) Where the debtor is an enterprise that is a body corporate, the registrant must enter the name of the body corporate.

20. (2) The registrant must enter, under separate "Debtor (Enterprise)" headings in the registration, all forms of the name of a debtor that is a body corporate if the name of the debtor is in more than one of the following forms:

- (a) an English form;**
- (b) a French form;**
- (c) a combined English-French form.**

20. (3) In entering the name of a debtor that is a body corporate, the registrant may enter, with or without a period, either the abbreviation "Ltd", "Ltee", "Ltée", "Inc", "Incorp", "Corp", "Co" or "Cie", as the case may be, or "Limited", "Limitee", "Limitée", "Incorporated", "Incorporee", "Incorporée", "Corporation", "Company" or "Compagnie", as the case may be.

20. (18) Where the name of a debtor as otherwise determined by this section includes

- (a) an accented character that, but for the accent, would be a letter in the English alphabet, or**
- (b) a character that consists of a letter in the English alphabet with the addition of a slash or another marking, and that character is not accepted in the Registry, the**

name of the debtor must be entered by using the character in the English alphabet without the accent or other addition.

**Apprenticeship, Trade and Occupations Certification Regulations –
Apprenticeship, Trade and Occupations Certification Act, R.R.N.W.T. (Nu)
1990 c. A-8**

37. Examinations

37. (1) A person who does not possess a sufficient knowledge of English to understand an examination may take an examination referred to in these regulations, other than an entrance examination or a Canadian Interprovincial Standards Examination, with the assistance of an interpreter.

37. (2) The interpreter must not be practising in nor have had any training or experience in the trade being examined.

R-024-98,s.11.

38. A person whose first or preferred language is French may take a written examination at the equivalent level in French where a French examination is available from another jurisdiction.

**Dental Profession Regulations – Dental Profession Act, R.R.N.W.T. (Nu)
1990 c. 4 (Supp.)**

4. In addition to the requirements of the Act, applicants for registration in the Dental Register Part Three must apply in writing to the Minister and must

[...]

(d) be fluent in the written and spoken form of at least one Official Language;

**Forest Management Regulations – Forest Management Act, R.R.N.W.T. (Nu)
1990 c. F-14**

63. Oath for Officer

63. An officer, other than an *ex officio* officer, shall, before acting as such, take and subscribe an oath or affirmation in the following form, translated, where applicable, into his or her native language:

I,, do solemnly swear/affirm that I will diligently, impartially and to the best of my ability, execute and perform the duties required of me as a forest

management officer, and will follow all lawful instructions that I receive as such, without fear of, or favour towards, any person. So help me God/I so affirm.

Mine Health and Safety Regulations – Mine Health and Safety Act, N.W.T. Reg. (Nu) 125-95

6.04 Training Program

6.04 (1) The manager shall ensure that training includes provision for the instruction of persons who may have a poor understanding of the language commonly used in the operation of the mine.

6.04 (2) Where a person has a poor understanding of the language commonly used in the operation of the mine, the person shall be trained by means of pictures and diagrams with verbal reinforcement.

7.30 Hoist Operator's Certificate

7.30 (1) The chief inspector may issue a hoist operator's certificate to a person who

[...]

(g) is fluent in the language commonly used at the mine.

7.31 Blasting Certificate

7.31 The chief inspector may issue a blasting certificate to a person who

[...]

(b) is able to give and receive orders in the language commonly used in the mine;
and

Rules of the Supreme Court of the Northwest Territories – Judicature Act, N.W.T. Reg. (Nu) 010-96

Part 28 – Evidence

Evidence Taken out of Court

359. (1) Delivery of letter of request

359. (1) Where an order is made in respect of a person referred to in subrule 358(2), the party who obtained the order shall send to the Deputy Minister of Foreign Affairs of

Canada, or to the Deputy Attorney General for the Territories if the evidence is to be taken in Canada,

[...]

(d) a translation, into the appropriate language of the jurisdiction where the examination is to take place, of the letter of request and the interrogatories, which translation bears the certificate of the translator

(i) stating that it is a true translation, and

(ii) setting out the translator's full name, address and qualifications to produce the translation.

Part 30 – Affidavits

372. Where it appears to an officer taking an affidavit that the deponent does not understand the English language,

(a) a competent interpreter shall be sworn to faithfully interpret the contents of the affidavit, and the interpreter shall interpret the entire contents of the affidavit and the oath to the deponent; and

(b) the officer shall in the jurat certify that, in his or her belief, the affidavit was faithfully interpreted to the deponent by the sworn interpreter and that the deponent understood it.

Part 45 - Service of foreign process

608. Translation of letter of request

608. A letter of request for service shall be accompanied by

(a) an English language translation of the letter, where the letter is in a language other than the English or French language; and

(b) two copies of the process or citation to be served and, where the process or citation is in a language other than the English or French language, an English language translation of it.

Tobacco Control Regulations – Tobacco Control Act, Nu. Reg. 011-2007

1. Languages

1. Any written information that is required to be posted or displayed by the Act or these regulations must be in Inuktitut, Inuinnaqtun, English and French.

[illegible]

Kuatiliqinnaqtuq niuviqtitaigiami tunigiamiluuniit tipaakumik nutaqanut qulaani 19nik ukiuqaqtunut

6. (1) A sign that is required to be posted under subsection 21(1) of the Act must be in the form set out in Schedule E and must

(b) be posted at each customer entrance to the place or premises at which the offence took place or to any place or premises to which the business of the retailer or the retailer's successor is moved; and

(i) the following message set in white 48-53 point Stencil Standard Bold type for English, Inuinnaqtun and French and 75 point Nunacom type for Inuktitut, on a black background:

I BROKE THE LAW

AHIRUQTARA MALIGAQ

J'AI CONTREVENU À LA LOI

(ii) the following message set in white or red 27 point ERAS ITC Bold type for English, Inuinnaqtun and French and 28 point Nunacom type for Inuktitut, on a black background:

[illegible]

My tobacco license has been SUSPENDED

Tipaakutiga laisinga PIIQTAUYUQ

Mon permis de vente de produits du tabac a été SUSPENDU

