

**CONSOLIDATION OF TRANSPORTATION
OF DANGEROUS GOODS ACT, 1990**

R.S.N.W.T. 1988,c.81(Supp.)
In force August 1, 1991: SI-008-91

(Current to: April 22, 2014)

The following provision has been deleted for the purposes of this consolidation:
s.67 (Commencement)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

S.N.W.T. 1995,c.11

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2010,c.3,s.17

s.17 in force March 23, 2010

S.Nu. 2011,c.10,s.37

s.37 in force March 10, 2011

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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TRANSPORTATION OF DANGEROUS GOODS ACT, 1990

INTERPRETATION

Definitions

1. In this Act,

"container" means transport equipment and equipment that is carried on a chassis, that is strong enough to be suitable for repeated use and is designed to facilitate the transportation of goods without intermediate reloading, but does not include a vehicle; (*conteneur*)

"dangerous goods" means any product, substance or organism referred to in the prescribed classes of dangerous goods or included by its nature in any of the prescribed classes of dangerous goods; (*marchandises dangereuses*)

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

"discharge" includes emission or escape; (*déversement*)

"highway" means a road, trail, place, bridge or structure, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use for the passage of vehicles and includes

- (a) a privately or publicly owned area that is designed and primarily used for the parking of vehicles, other than the driveway of a private dwelling,
- (b) any sidewalk, pathway, ditch or shoulder adjacent to and on either side of the travelled portion of the road or place and the area between such sidewalk, pathway, ditch or shoulder and the travelled portion of the road or place, and
- (c) any road or trail on a frozen body of water or water course or any road or trail that can be used for only a portion of a year; (*route*)

"packaging" means any receptacle or enveloping material used to contain or protect goods, excluding a container or a vehicle; (*emballage*)

"safety mark" includes any designs, symbols, devices, signs, labels, placards, letters, words, numbers or abbreviations that are prescribed for display, either individually or in combination, on dangerous goods, containers, packaging or vehicles used in the transportation of dangerous goods; (*indication de danger*)

"safety requirements" means requirements for the transportation of dangerous goods, the training of persons engaged in that transportation and the reporting and inspection of that transportation; (*règles de sécurité*)

"safety standards" means standards regulating the design, construction, equipping, functioning or performance of containers, packaging or vehicles used in the transportation of dangerous goods; (*normes de sécurité*)

"shipping document" means any bill of lading, cargo manifest, shipping order, way-bill or other document that accompanies dangerous goods being transported and that describes or contains information relating to the goods; (*document d'expédition*)

"vehicle" includes

- (a) any vehicle designed to travel on land, that is drawn, propelled or driven by any kind of power, including muscular power, but does not include a device that is designed to run on rails,
- (b) an all-terrain vehicle as defined in the *All-terrain Vehicles Act*, and
- (c) a trailer as defined in the *Motor Vehicles Act*. (*véhicule*)

GOVERNMENT OF NUNAVUT

Binding on government

2. This Act and the regulations bind the Government of Nunavut.
S.Nu. 2011,c.10,s.37(2).

APPLICATION

Application

3. (1) Subject to subsection (2), this Act applies to all dangerous goods that are transported on a highway by a vehicle, whether or not for hire or reward.

Exceptions

- (2) This Act does not apply to the transportation of dangerous goods
- (a) to the extent that the transportation is exempted by the regulations;
 - (b) under the sole direction or control of the Minister of National Defence; or
 - (c) to the extent that the transportation is exempted by a permit, where there is compliance with all prescribed terms and conditions respecting the permit and all terms and conditions imposed on the permit.

Paramountcy

(3) Where there is a conflict between the terms of this Act and the regulations and the terms of any other enactment, this Act and the regulations operate with respect to the transportation of dangerous goods, unless this Act otherwise provides or another Act specifically states that it operates despite this Act. S.Nu. 2010,c.3,s.17(2);
S.Nu. 2011,c.10,s.37(2).

PERMITS

Permits

4. (1) The Minister may, in accordance with this Act and the regulations, issue permits exempting the transportation of dangerous goods from the application of this Act or the regulations.

Inquiries by Minister

(2) The Minister may make such inquiries as the Minister considers necessary before issuing a permit.

Power of Minister

5. The Minister may issue a permit under subsection 4(1) where the Minister

- (a) believes on reasonable grounds that an emergency situation exists and the exemption is necessary to prevent, reduce or eliminate danger to life, health, property or the environment; or
- (b) is satisfied, on reasonable grounds, that the manner of transporting the dangerous goods provides a level of safety at least equivalent to that provided by compliance with the Act and the regulations.

Terms and conditions

6. (1) The Minister may, in addition to any prescribed term or condition, impose any terms or conditions in a permit that the Minister considers appropriate.

Alteration to permit

(2) The Minister may amend or delete a term or condition imposed in a permit after the permit is issued.

Form of permit and application

7. (1) Subject to subsection (2), an application for a permit and a permit must be in writing in a form approved by the Minister.

Oral permit

(2) A permit referred to in paragraph 5(a) may be issued orally on the basis of an oral application.

Form of permit

(3) The Minister shall, in writing, confirm an oral permit as soon as practicable after it is issued and the written permit shall for all purposes be deemed to be the permit issued.

Fee

8. (1) Subject to subsection (2), every application for a permit must be accompanied by the prescribed fee.

Time limitation

(2) Where an oral permit is issued, the person to whom the permit is issued shall submit the prescribed fee, and a written application in a form approved by the Minister, within 14 days after the permit is issued.

Prohibition

- 9.** No person shall, unless authorized in writing by the Minister,
- (a) transfer, sell or assign a permit;
 - (b) offer to transfer, sell or assign a permit;
 - (c) purchase or offer to purchase a permit; or
 - (d) accept or offer to accept the transfer or assignment of a permit.

Amendments, cancellation or suspension

- 10.** The Minister may
- (a) amend a permit to correct a typographical or clerical error;
 - (b) cancel a permit that was issued in error;
 - (c) amend, cancel or suspend a permit on the application of the person holding the permit; or
 - (d) amend, cancel or suspend a permit where the Minister believes on reasonable grounds that the person holding the permit or his or her employees or agents have contravened this Act or the regulations or a term or condition imposed on the permit.

Notice

11. Where a permit is amended under subsection 6(2) or section 10, or is suspended or cancelled under section 10, the Minister shall ensure that notice of the amendment, suspension or cancellation is served on the person holding the permit.

Permit must be produced

12. A person holding a permit or transporting dangerous goods under the authority of a permit, other than an oral permit, shall produce the permit or a copy of the permit, without delay, at the request of an inspector.

DANGEROUS GOODS

Prohibited transportation

- 13.** No person shall transport dangerous goods by means of a vehicle on a highway unless
- (a) all applicable prescribed safety requirements are complied with;
 - (b) the person is in possession of all applicable prescribed shipping documents; and
 - (c) the vehicle and any containers and packaging transported by the vehicle comply with all applicable prescribed safety standards and display all applicable prescribed safety marks.
- S.Nu. 2011,c.10,s.37(2).

Safety standards

- 14.** (1) No person shall
- (a) put a prescribed safety mark on a container, packaging or vehicle used or intended for use in the transportation of dangerous goods, or
 - (b) deliver or distribute a container, packaging or vehicle used or intended for use in the transportation of dangerous goods, on which any prescribed safety mark is displayed,
- unless the container, packaging or vehicle complies with all applicable prescribed safety standards.

Prohibition

(2) No person shall transport any product, substance or organism in a container, packaging or vehicle on which a safety mark is displayed, unless that person is in possession of shipping documents that refer to the same dangerous goods or class of dangerous goods as that referred to on the safety mark.

Emergency plans

15. A person who engages in or proposes to engage in the transportation of dangerous goods shall, at the request of the Minister, prepare emergency plans in a form and having a content acceptable to the Minister for implementation in the event of a discharge of dangerous goods from a container, packaging or vehicle.

Financial responsibility

16. A person who engages in or proposes to engage in the transportation of dangerous goods shall, at the request of the Minister, provide evidence of financial responsibility in the form of insurance or an indemnity bond, or in any other form satisfactory to the Minister.

ENFORCEMENT

Inspection

Inspection

- 17.** (1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may, at any reasonable time, inspect
- (a) any container, packaging, vehicle or load of a vehicle where the inspector believes on reasonable grounds that dangerous goods are being transported; or
 - (b) any vehicle or place in which the inspector believes on reasonable grounds that any books, records, electronic data or other documents relevant to the administration of this Act or the regulations can be found.

Vehicle to stop

(2) An inspector may, for the purpose of an inspection under subsection (1), direct a driver of a vehicle to stop and park the vehicle at a place specified by the inspector.

Duty to comply

(3) The driver of a vehicle that has been directed to stop by an inspector under subsection (2) shall

- (a) immediately stop the vehicle and park the vehicle at the place specified by the inspector; and
- (b) not move the vehicle until permitted to do so by the inspector.

Warrant required to enter dwelling-house

18. (1) An inspector may not enter a dwelling-house under subsection 17(1) without the consent of the occupant, except under the authority of a warrant issued under subsection (2).

Authority to issue warrant

(2) Where on *ex parte* application a justice of the peace is satisfied by information on oath

- (a) that the conditions for entry described in subsection 17(1) exist in relation to a dwelling-house,
- (b) that entry to the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and
- (c) that entry to the dwelling-house has been refused or that there are reasonable grounds for believing that entry to the dwelling-house will be refused,

the justice may issue a warrant authorizing the inspector named in the warrant and any person assisting the inspector to enter and inspect that dwelling-house, subject to any conditions specified in the warrant.

Search

Warrant to search

19. (1) Where on *ex parte* application a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is, in any container, packaging, vehicle or place, any thing that will afford evidence with respect to any contravention of this Act or the regulations, the justice may issue a warrant authorizing the inspector named in the warrant and any person assisting the inspector to enter and search that container, packaging, vehicle or place for any such thing, subject to any conditions specified in the warrant.

Search and seizure

- (2) An inspector authorized by a warrant issued under subsection (1) may
- (a) at any reasonable time enter and search a container, packaging, vehicle or place referred to in the warrant; and
 - (b) seize, detain and remove anything referred to in the warrant.

Powers of Inspector

Powers of enforcement

- 20.** (1) An inspector may, in the performance of an inspection or search,
- (a) for the purpose of analysis, take samples of anything that the inspector believes on reasonable grounds to be dangerous goods;
 - (b) examine and remove, for the purpose of making copies or taking extracts, any books, records, electronic data, or other documents that the inspector believes on reasonable grounds to contain information relevant to the administration or enforcement of this Act or the regulations;
 - (c) open and inspect any container, packaging or vehicle in which the inspector believes that dangerous goods are being transported;
 - (d) conduct any tests or take any measurements; and
 - (e) examine anything relevant to the administration of this Act.

Operation of computer system and copying equipment

- (2) An inspector may, in the performance of an inspection or search,
- (a) use or cause to be used any computer system at the place to examine any data contained in or available to the computer system;
 - (b) reproduce any record or cause it to be reproduced from the data in the form of a print-out or other copy;
 - (c) take a print-out or other copy for examination or copying; and
 - (d) use or cause to be used any copying equipment at the place to make copies of the record.

Duty of owner or person in charge

- (3) The owner or person in charge of any vehicle or place being inspected or searched shall permit the inspector to
- (a) use or cause to be used any computer system at the place to examine any data contained in or available to the computer system;
 - (b) reproduce any record or cause it to be reproduced from the data in the form of a print-out or other copy;
 - (c) take a print-out or other copy for examination or copying; and
 - (d) use or cause to be used any copying equipment at the place to make copies of the record.

Use of force

- 21.** An inspector who executes a warrant shall not use force unless the use of force is specifically authorized in the warrant.

Assistance to inspectors

- 22.** The owner or person in charge of a vehicle or place being inspected or searched and every person found in the vehicle or place shall
- (a) give the inspector all reasonable assistance to enable the inspector to carry out his or her duties under this Act and the regulations; and
 - (b) furnish the inspector with such information with respect to the administration of this Act and the regulations as the inspector may reasonably request.

Seizure

Seizure

23. (1) Where, during the course of an inspection or a search, an inspector has reasonable grounds to believe that this Act or the regulations have been contravened, the inspector may seize, detain and remove a thing that the inspector reasonably believes will afford evidence with respect to the contravention.

Limitation

(2) An inspector shall not seize a thing under subsection (1) unless the thing is required as evidence or for purposes of analysis or the inspector is of the opinion that the seizure is necessary in the public interest.

Additional seizure

(3) Where the thing referred to in subsection (1) is so mixed or annexed to other things that it is impracticable or difficult to separate the seized thing from the other things, an inspector may seize the other things.

Notice of contravention

(4) An inspector who has seized a thing under this section shall, as soon as practicable, advise the person in whose possession it was at the time of seizure of the provision of this Act or the regulations that the inspector believes has been contravened.

Abandoned goods

24. Dangerous goods that on reasonable grounds appear to an inspector to be abandoned or to have deteriorated and to be a danger to persons, property or the environment may be destroyed or otherwise disposed of by the inspector in any manner that the inspector considers appropriate.

Release from seizure

25. (1) Subject to subsection (2), an inspector shall return a thing seized to the person from whom it was seized or any other person who appears on reasonable grounds to be entitled to the thing seized

- (a) after the provisions of this Act and the regulations have, in the opinion of an inspector, been complied with, or
- (b) not later than 30 days from the day of the seizure,

whichever occurs first.

Proceedings instituted

(2) Where proceedings are instituted in respect of an offence under this Act or the regulations in relation to a thing seized, the thing may be detained until the proceedings are finally concluded.

Application

26. (1) Where proceedings referred to in subsection 25(2) are instituted, any person from whom a thing has been seized or any other person who is entitled to the thing seized may apply to the court before which the proceedings are instituted for an order that the thing be returned to the applicant.

Terms and conditions

(2) A court may grant an application and order the immediate return of a thing to the applicant, subject to any terms and conditions that appear necessary or desirable to ensure that it is safeguarded and preserved for any purpose for which it may subsequently be required, where the court is satisfied that

- (a) it is not in the public interest to continue to hold the thing;
- (b) it is not required as evidence or for the purposes of analysis; and
- (c) no danger to persons, property or the environment would occur by the release of the thing.

Order to forfeit

27. (1) Where a person is convicted of an offence under this Act or the regulations, a thing seized in relation to which the offence was committed may be forfeited to the Government of Nunavut by order of the convicting court, whether or not the thing has previously been returned.

Disposal

(2) Where a forfeiture order is made under subsection (1), the thing is forfeited and may be disposed of at the direction of the Minister.

Costs of disposal

(3) The Government of Nunavut may claim and recover the reasonable costs and expenses of disposing of a thing under subsection (2) from a person convicted of an offence to which the thing relates, or where two or more persons are convicted of such an offence, jointly and severally from those persons.

Cause of action

(4) A claim under subsection (3) may be sued for and recovered with costs as a debt due to the Government of Nunavut. S.Nu. 2011,c.10,s.37(2).

Return of property

28. Where proceedings referred to in subsection 25(2) are instituted but no forfeiture is ordered, the thing seized shall, at the conclusion of the proceedings, be returned to the person from whom the seizure was made or any other person who appears on reasonable grounds to an inspector to be entitled to it, unless that person has been convicted of an offence under this Act or the regulations, in which case the thing may be

- (a) held until any fine imposed on conviction has been paid; or
- (b) sold under execution in satisfaction of the fine or any part of the fine.

Certificate

29. (1) Where an inspector inspects, seizes or takes a sample of a thing under this Act or the regulations, the inspector shall, if the thing is sealed or closed up, provide the owner or person in charge of it with a certificate, in a form approved by the Director, evidencing the inspection, seizure or taking of the sample.

Liability and compliance

(2) A certificate provided under subsection (1) relieves the person to whom or for whose benefit it is provided of liability with respect to the inspection, seizure or taking of a sample evidenced by the certificate, but does not otherwise exempt that person from compliance with this Act or the regulations.

Arrest

Powers of arrest

30. (1) An inspector may arrest, without a warrant, a person whom the inspector finds contravening this Act or the regulations if the inspector believes on reasonable grounds that the public interest, having regard to all the circumstances, including

- (a) the need to establish the identity of the person,
- (b) the need to secure or preserve evidence of or relating to the contravention,
- (c) the need to prevent the continuation or repetition of the contravention or the commission of another contravention, and
- (d) the probability that the person will fail to attend in court in order to be dealt with according to law,

requires that the person be arrested without a warrant.

Protection of inspector

(2) An inspector is entitled to the protection to which a peace officer is entitled under section 25 of the *Criminal Code*.

Dangerous Occurrences

Order of inspection

31. (1) An inspector may issue an order, in accordance with subsection (2), to the owner or person in charge of dangerous goods, where the inspector believes on reasonable grounds that

- (a) there is occurring or has occurred a discharge of the dangerous goods from a container, packaging or vehicle transporting the dangerous goods;
- (b) there is a reasonable likelihood of a discharge of the dangerous goods from any container, packaging or vehicle transporting the dangerous goods; or
- (c) the dangerous goods are being transported in contravention of this Act or the regulations.

Conditions of order

(2) An order issued under subsection (1) may require a person to

- (a) cease transporting the dangerous goods, container, packaging or vehicle;
- (b) remove the dangerous goods, container, packaging or vehicle to a location specified in the order; or
- (c) take any other measures that are practicable to protect life, health, property or the environment.

Compliance with order

(3) Where an order is made under this section, no person shall transport the dangerous goods, container, packaging or vehicle, except as provided in the order, until the order is terminated by an inspector or the order expires.

Expiry of order

32. (1) An order issued under section 31 expires 30 days after it is issued, unless extended by an inspector.

Termination of order

(2) An inspector may, in writing, terminate, extend or vary an order.

Director may take action

33. (1) Where an order is issued to a person under this Act requiring the person to do anything or to comply with certain terms and conditions and the person fails to comply with the order, the Director may take the measures or cause them to be taken.

Liability

(2) Any person, other than a person to whom an order is issued under section 31, who takes any measures required to be taken under subsection 31(2), is not liable to a member of the public for any loss or damage caused by anything done or not done by him or her in good faith in taking the measures.

Duty to take action

34. (1) Where there is a discharge of dangerous goods from a container, packaging or vehicle transporting dangerous goods, or there is a reasonable likelihood of such a discharge occurring, the person who owns or has charge of the dangerous goods at the time shall, as soon as possible in the circumstances,

- (a) in accordance with the regulations, report any discharge to an inspector or a person designated by regulation;
- (b) implement the emergency plans referred to in section 15; and
- (c) subject to any order made under section 31, take all other reasonable emergency measures consistent with public safety to repair or remedy any dangerous condition or reduce or mitigate any danger to life, health or the environment that results or may reasonably be expected to result from the discharge.

Intervention by inspector

(2) Where a person fails to take any measures required under subsection (1), an inspector or a person authorized or directed by an inspector may take those measures or cause them to be taken.

No warrant required

(3) An inspector or other person authorized or directed to take any measures under subsection (1) or (2) may, without a warrant, enter and have access to any place or property and may do all reasonable things as may be necessary in order to comply with subsection (1) or (2).

Liability

(4) Any person, other than the person who owns or has charge of dangerous goods immediately before the discharge or likelihood of a discharge referred to in subsection (1), who provides assistance or advice in taking the measures required by subsection (1), is not liable to a member of the public for any loss or damage caused by anything done or not done by him or her in good faith in the course of providing assistance or advice.

Directive of Minister

35. (1) Where the Minister considers it necessary for the protection of the public, property or the environment, the Minister may direct a person engaged in the transportation of dangerous goods to cease any activity or to perform the activity in a manner consistent with the intention of this Act.

Minister to confirm

(2) A directive under subsection (1) that is made orally shall be confirmed in writing by the Minister as soon as practicable after it is made.

Service of directive

(3) The Minister shall serve a copy of the directive on the person to whom it is made.

Appeal of directive

(4) A person who receives a directive under subsection (1) may appeal the directive to the Nunavut Court of Justice within 60 days of receiving the directive, but that person shall comply with the directive until the appeal is finally determined. S.Nu. 2011,c.10,s.37(2).

Appeal

Appeal to Nunavut Court of Justice

36. (1) An appeal to the Nunavut Court of Justice shall be commenced by

- (a) filing an originating notice with the Nunavut Court of Justice; and
- (b) serving a copy of the originating notice on the Minister.

Extension of time

(2) The Nunavut Court of Justice may, before or after the expiration of time to appeal, extend the time within which an appeal may be made.

Application of Rules

(3) Subject to this Act, the Rules of the Nunavut Court of Justice apply to an appeal under this Act, with such modifications as the circumstances require. S.Nu. 2011,c.10,s.37(2).

Power of Nunavut Court of Justice

37. The Nunavut Court of Justice, on hearing the appeal, may confirm, vary or set aside the directive of the Minister. S.Nu. 2011,c.10,s.37(2).

Recovery of Costs and Expenses

Costs and expenses

38. (1) The Government of Nunavut may claim and recover the reasonable costs and expenses incurred in taking any measures under section 24, 33 or 34 from every person who, through his or her fault or negligence or the fault of negligence of others for whom he or she is by law responsible, caused or contributed to the causation of an abandonment or discharge referred to in section 24, 33 or 34.

Joint and several liability

(2) Where the Government of Nunavut may claim and recover costs and expenses from two or more persons under subsection (1), the costs and expenses may be recovered jointly and severally from those persons.

Cause of action

(3) A claim under this section may be sued for and recovered with costs as a debt due to the Government of Nunavut. S.Nu. 2011,c.10,s.37(2).

ADMINISTRATION

Agreements with a province or territory

39. (1) The Minister may enter into agreements with a province or territory respecting the administration and enforcement of

- (a) this Act and the regulations; or
- (b) any Act or regulation of a province or territory that deals with the transportation of dangerous goods.

Agreements with Government of Canada

(2) The Minister and the Commissioner may enter into agreements with the Government of Canada respecting the administration and enforcement of

- (a) this Act and the regulations; or
- (b) the *Transportation of Dangerous Goods Act (Canada)* and the regulations under that Act.

Apportionment of costs

(3) An agreement entered into under this section may provide for any matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of any costs, expenses or revenues arising from the agreement. S.Nu. 2011,c.10,s.37(2).

Director

40. (1) The Minister may appoint a Director.

Delegation

(2) The Minister may, in writing, delegate to the Director any of the powers and duties of the Minister other than the power to make a recommendation to the Commissioner under section 63 or subsection 64(1).

Analysts

41. The Director may appoint analysts.

Inspectors

42. (1) The Director may appoint inspectors.

Powers and duties

(2) An inspector has the powers and duties set out in this Act and the regulations.

Certificates

(3) Every inspector, other than an inspector by virtue of his or her office, must be furnished with a certificate of identification in a form approved by the Director.

Production of certificate

(4) On inspecting any container, packaging, vehicle or place, the inspector shall, on request, produce the certificate to the person in charge of the thing or place being inspected. S.Nu. 2011,c.10,s.37(2).

Powers of Director

43. The Director may perform any of the powers and exercise any of the duties of an inspector.

Ex officio inspectors

44. Members of the Royal Canadian Mounted Police are, by virtue of their office, inspectors. S.Nu. 2011,c.10,s.37(2).

Liability

45. The Director and the inspectors are not liable for loss or damage caused by anything done or not done by them in good faith in the performance of their duties or in the exercise of their powers.

Definition of "electronic transmission"

46. (1) In this section, "electronic transmission" includes a transmission by telex, facsimile transfer or computer.

Service of documents

(2) Where this Act or the regulations requires that an order, directive, document or notice be given to or served on a person, it may be

- (a) served personally on an individual;
- (b) served on a corporation by leaving the document or notice at the registered office of the corporation or with an officer, director, manager, secretary or agent of the corporation;
- (c) mailed by registered mail or sent by electronic transmission to the residence or usual place of business of the person; or
- (d) published in a newspaper that is circulated at or near the last known address of the person.

OFFENCES AND PUNISHMENT

Prohibition

47. No person other than an inspector shall

- (a) hold himself or herself out as an inspector;
- (b) carry or wear a badge or other identification that is likely to cause persons to believe that he or she is an inspector; or
- (c) unless authorized under this Act or regulations, exercise or attempt to exercise any of the powers of an inspector.

Obstruction of inspector

48. No person shall, while an inspector is exercising his or her powers or performing his or her duties,

- (a) obstruct, delay or interfere with the inspector; or
- (b) knowingly give any false or misleading information to the inspector.

Interference with property

49. No person shall, unless authorized by an inspector or other person under this Act,

- (a) use, move or in any way interfere with property that has been seized under this Act; or
- (b) remove, duplicate or destroy any sign posted by an inspector or any tag or other mark that an inspector attaches to any dangerous goods, container, packaging or vehicle.

Permit

50. No person, other than the person to whom a permit is issued, shall

- (a) hold himself or herself out as the holder of the permit; or
- (b) exercise or attempt to exercise any rights attached to the permit.

False or misleading information

51. No person shall

- (a) make a false or misleading statement or provide false or misleading information in an application for a permit or any other form or document required under this Act or the regulations; or
- (b) make a false or misleading entry in any book or record required to be kept under this Act or the regulations.

Contravention of section 13 or 14

52. Every person who contravenes section 13 or 14 is guilty of an offence and liable on summary conviction

- (a) for a first offence, to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months or to both; and
- (b) for each subsequent offence, to a fine not exceeding \$1,000,000 or to imprisonment for a term not exceeding two years or to both.

Offence and penalty

53. Every person who contravenes a provision of this Act or the regulations for which no other punishment is provided by this Act, or who fails to comply with an order of an inspector or a directive of the Minister, or the terms and conditions of a permit, is guilty of an offence and liable on summary conviction to a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months or to both.

Limitation

54. (1) No proceedings may be instituted in respect of an offence under this Act or the regulations later than two years after the day on which the Director became aware of the subject-matter of the proceedings.

Director's certificate

(2) A document apparently issued by the Director, certifying the day on which the Director became aware of the subject-matter of any proceedings, is admissible in evidence and is, in the absence of evidence to the contrary, proof of that fact without proof of the signature or official character of the person appearing to have signed the document.

Continuing offence

55. Where an offence under this Act is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Proof of offence

56. In any prosecution of an offence under this Act it is sufficient proof of the offence to establish that it was committed by an employee or agent of the defendant, whether or not the employee or agent is identified or prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his or her knowledge and that he or she took all reasonable measures to prevent its commission.

Liability of directors

57. Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

Defence

58. No person is guilty of an offence under this Act or the regulations if the person establishes that he or she took all reasonable measures to prevent its commission.

EVIDENCE

Proof of documents

59. (1) In a prosecution for an offence under this Act or the regulations,

- (a) a certificate apparently signed by the Director stating that a named person was or was not on a specified day or during a specified period the holder of a permit,
- (b) a certificate or report of an analyst stating that he or she has analyzed or examined a dangerous good and stating the results of the analysis,

- (c) a report of an inspector stating that he or she has inspected a container, packaging, vehicle, place or dangerous good and stating the results of the inspection, or
- (d) a copy, extract or print-out taken by an inspector under section 20 and appearing to be certified under his or her signature as a true copy, extract or print-out,

is admissible in evidence and is, in the absence of evidence to the contrary, proof of the statements set out in the certificate or report, without proof of the signature or the official character of the person appearing to have signed or certified the certificate, report, copy, extract or print-out.

Cross-examination

(2) The party against whom a certificate, report, copy, extract or print-out described in subsection (1) is produced may, with leave of the court, require the attendance of the analyst or inspector who signed or certified or who appears to have signed or certified the certificate, report, copy, extract or print-out for the purpose of cross-examination.

Notice

(3) No certificate or report of an analyst or inspector, or copy, extract or print-out taken by an inspector, shall be admitted as evidence unless the party intending to produce it has given to the opposite party at least seven-day notice of such intention together with a copy of the certificate, report, copy, extract or print-out.

Evidence

60. A shipping document identifying dangerous goods, or a safety mark appearing on any container, packaging or vehicle, is admissible in evidence and is, in the absence of evidence to the contrary, proof of the information contained in the document or safety mark relating to the dangerous goods or the contents of that container, packaging or vehicle.

BY-LAWS

By-laws

61. (1) Subject to this Act and the regulations, a municipal corporation may, by by-law, designate the routes and times of travel of vehicles transporting dangerous goods on highways within the municipality.

Publication

(2) Notice of every by-law made under subsection (1) must be published in a newspaper having a general circulation in the municipality.

REPORT TO LEGISLATIVE ASSEMBLY

Annual report

- 62.** (1) The Minister shall, in respect of the administration of this Act and the regulations in a year, cause to be prepared a report describing any
- (a) permit issued under subsection 4(1);
 - (b) application made under subsection 7(1);
 - (c) amendment, cancellation or suspension of a permit under paragraph 10(d);
 - (d) order issued under subsection 31(1);
 - (e) report made under subsection 34(1);
 - (f) directive issued under subsection 35(1);
 - (g) appeal commenced under section 36;
 - (h) action taken by the Government of Nunavut for the recovery of reasonable costs and expenses under section 38;
 - (i) proceedings instituted in respect of an offence under this Act or the regulations; and
 - (j) conviction for a contravention of this Act or the regulations.

Tabling report before Legislative Assembly

(2) The Minister shall table the report referred to in subsection (1) at the first session of the Legislative Assembly after the expiry of the year that is the subject of the report. S.Nu. 2011,c.10,s.37(2).

REGULATIONS

Regulations

- 63.** The Commissioner, on the recommendation of the Minister, may make regulations
- (a) establishing divisions, subdivisions, groups and classes of dangerous goods;
 - (b) prescribing products, substances and organisms to be included in the classes of dangerous goods;
 - (c) specifying, for each product, substance and organism, the class, division, subdivision or group into which it falls;
 - (d) determining or providing the manner of determining the class, division, subdivision or group into which any dangerous goods fall;
 - (e) exempting from the application of any provision of this Act or the regulations the transportation of dangerous goods in any quantities or concentrations, in any circumstances, for any purposes or in any containers, packaging or vehicles as are specified in the regulations;
 - (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under paragraph (e);

- (g) prescribing circumstances in which the transportation of dangerous goods is prohibited;
- (h) specifying dangerous goods that shall not be transported in any circumstances;
- (i) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (j) respecting the preparation of emergency plans under section 15;
- (k) respecting the manner and circumstances in which a report of the discharge of dangerous goods referred to in section 34 shall be made and designating the person to whom the report should be made;
- (l) respecting the qualification, training and examination of inspectors and analysts;
- (m) prescribing shipping documents and other documents to be used in the transporting of dangerous goods, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (n) prescribing the circumstances in which fees are to be paid for inspections under this Act and determining the amount of such fees;
- (o) respecting the application for and the issuing of a permit referred to in section 4;
- (p) respecting the form, effect and duration of directives under section 35;
- (q) prescribing fees for
 - (i) applications for permits,
 - (ii) copies of documents, and
 - (iii) any other service provided for under this Act or the regulations;
- (r) respecting the renewal, suspension, amendment and cancellation of permits;
- (s) setting out terms and conditions that apply to permits;
- (t) governing the route and time of travel of vehicles transporting dangerous goods;
- (u) respecting the powers and duties of inspectors; and
- (v) respecting any matter the Commissioner considers necessary for carrying out the purposes and provisions of this Act.

Adoption of codes

64. (1) The Commissioner, on the recommendation of the Minister, may, by regulation, adopt any code or standard, or any regulation made under an Act of a province or territory, or the Parliament of Canada, and on adoption the code, standard or regulation is in force in Nunavut with such variations as may be specified in the regulation adopting the code, standard or regulation.

Codes as amended

(2) A regulation made under subsection (1) may adopt a code, standard or regulation as amended from time to time.

Publication of notice of adoption

(3) Where a code, standard or regulation is adopted under this section, publication in the *Nunavut Gazette* of a notice of adoption identifying the code, standard or regulation, stating where copies can be obtained and setting out the variations subject to which it is adopted, shall for the purposes of the *Statutory Instruments Act* be deemed sufficient publication without publishing in the *Nunavut Gazette* the text of the code, standard or regulation adopted. S.Nu. 2011,c.10,s.37(2).

REPEAL

Repeal

65. The *Transportation of Dangerous Goods Act* is repealed.

TRANSITIONAL

Transitional

66. The appointment of a person as an inspector under the *Transportation of Dangerous Goods Act* is continued under this Act until revoked.