

CONSOLIDATION OF ARCHIVES ACT

R.S.N.W.T. 1988,c.A-6

(Current to: August 13, 2012)

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2007,c.8,s.2

s.2 in force November 8, 2007

S.Nu. 2010,c.3,s.1

s.1 in force March 23, 2010

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/english/legislation.html> 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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ARCHIVES ACT

Definitions

1. In this Act,

"Archives" means the Nunavut Archives established by section 4; (*archives*)

"Archivist" means the Territorial Archivist appointed under section 3; (*archiviste*)

"government body" means

- (a) a department, branch or office of the Government of Nunavut,
- (b) an agency, board, commission, corporation, office or other body designated in the regulations, or
- (c) the office of a member of the Executive Council;
(*organisme gouvernemental*)

"public record" means a record that is created by or for or is received by a government body in carrying out its activities, but does not include

- (a) a record of the Office of the Legislative Assembly,
- (b) a record of a committee of the Legislative Assembly,
- (c) a record of a member of the Legislative Assembly other than a member of the Executive Council,
- (d) a record of a member of the Executive Council that relates to his or her activities as a member of the Legislative Assembly,
- (e) correspondence sent or received by or on behalf of a member of the Legislative Assembly, unless the correspondence relates to his or her responsibilities as a member of the Executive Council,
- (f) a record of a member of the Legislative Assembly, including a member of the Executive Council, that relates to his or her constituency office or to his or her representation of constituents, or
- (g) a surplus copy of a record or a copy of a record that is created only for convenience of reference; (*document public*)

"Public Records Committee" means the committee established by subsection 6(1); (*comité des documents publics*)

"record" means a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include a computer program or other mechanism that produces records. (*document*)

S.Nu. 2007,c.8,s.2(2); S.Nu. 2010,c.3,s.1.

Conflict with other Acts and orders

2. Nothing in this Act shall be construed to authorize the destruction or other disposition of any public record in contravention of any Act or order of a court or the Commissioner.

Territorial Archivist

3. There shall be an officer in charge of the Nunavut Archives called the Territorial Archivist who shall be appointed by the Minister. S.Nu. 2010,c.3,s.1.

Nunavut Archives

4. The Nunavut Archives are established and shall consist of

- (a) all public records and other documentary material under the care, custody and control of the Archivist on December 31, 1981; and
- (b) all other public records and other material that are placed under the care, custody or control of the Archivist under this or any other Act or under an agreement that the Archivist enters into.

S.Nu. 2010,c.3,s.1.

Transfer of public records to Archivist

5. (1) Subject to the regulations made under paragraphs 11(1)(b) and (c), every public record shall be transferred to the Archivist within 30 years after the date on which the record came into existence.

Safekeeping

(2) The Archivist is responsible for the safekeeping of every public record that is transferred to the Archivist under this section.

Access

(3) Public records transferred to the Archivist under this section shall be made available to the public in accordance with the regulations.

Return of public record

(4) Where a public record has been transferred to the Archivist under this section, the government body from which the public record was transferred may apply to the Public Records Committee, in the prescribed form, to have the public record returned to it for its use.

Notice of destruction

(5) Where the destruction of a public record is ordered under this section, the Public Records Committee shall ensure that notice of the destruction is published in the *Nunavut Gazette* and such other publication as the Public Records Committee considers appropriate, at least 15 days before the destruction.

Objection to destruction

(6) Where a written objection to the destruction of a public record is received, the Public Records Committee shall review the objection before destroying the record.
S.Nu. 2010,c.3,s.1.

Public Records Committee

6. (1) There shall be a committee called the Public Records Committee composed of

- (a) the Archivist, who shall be the chairperson;

- (b) the Records Manager of the Department of Community and Government Services; and
- (c) such other persons as may be appointed by the Minister.

Duties

- (2) The Public Records Committee shall
 - (a) advise the Commissioner on matters relating to the destruction and preservation of public records and public access to public records; and
 - (b) perform the duties imposed on it by this Act or the regulations.

Powers

(3) The Public Records Committee may exercise the powers conferred on it by this Act. S.Nu. 2010,c.3,s.1.

Acquisition of documentary material

7. (1) The Archivist may acquire by gift, bequest, loan or purchase or in any other similar manner, and place in the Archives, any pamphlet, map, chart, manuscript, paper, book, photograph or other documentary material regardless of physical form or characteristic, having any bearing on the history of Nunavut.

Agreements by Minister

(2) The Minister may enter into agreements on behalf of the Government of Nunavut for the purpose of making acquisitions.

Agreements by Archivist

(3) Notwithstanding subsection (2), the Archivist may enter into agreements for the purchase of documentary materials only to the extent of the moneys voted by the Legislative Assembly for the purpose of the Archives. S.Nu. 2010,c.3,s.1.

Certified copies of public records and documents

8. The Archivist may certify a copy of any public record or other document in the Archives to be a true copy of the public record or document from which the copy was made and the certified copy is, in the absence of evidence to the contrary, proof of the existence of the public record or document from which the certified copy was made without the proof of the appointment or signature of the Archivist.

Authority to destroy or relinquish control over public records

9. No government body shall, except with the written authority of the Public Records Committee or as authorized by the regulations, destroy any public record over which it has control or relinquish its control over any such record to a non-government body.

Offences and punishment

10. Every person who unlawfully damages or mutilates a public record or, except as authorized by this Act or the regulations, destroys a public record or removes or

withholds a public record from a government body or the Archives, is guilty of an offence and liable on summary conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one year or to both.

Regulations on recommendation of Public Records Committee

11. (1) The Commissioner, on the recommendation of the Public Records Committee, may make regulations

- (a) respecting the manner in which the public may have access to the public records in the Archives;
- (b) extending or reducing the period of time that is to elapse before a public record is to be transferred to the Archivist and designating that public record;
- (c) authorizing the destruction of a public record before the date of transfer to the Archivist;
- (d) respecting the preservation, storage, transfer and destruction of public records;
- (e) respecting the manner in which a public record may be recalled under subsection 5(4); and
- (f) establishing classes of records and public records for the purposes of regulations made under any or all of paragraphs (a) to (e).

Regulations on recommendation of Minister

(2) The Commissioner, on the recommendation of the Minister, may make regulations

- (a) respecting the manner in which the public may have access to the non-public records in the Archives;
- (a.1) designating agencies, boards, commissions, corporations, offices or other bodies as government bodies;
- (b) respecting additional powers and duties of the Archivist;
- (c) prescribing any fees that may be charged for the production of copies of public records and any other documentary material in the Archives;
- (d) prescribing any forms that may be required by this Act; and
- (e) for carrying out the purposes and provisions of this Act.
S.Nu. 2007,c.8,s.2(3),(4).