

CONSOLIDATION OF COMMISSIONER'S LAND ACT
R.S.N.W.T. 1988,c.C-11

(Current to: August 29, 2012)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.8(Supp.)

In force July 19, 1993: SI-008-93

S.N.W.T. 1994,c.23

In force April 6, 1994 except s. 2, 3, 5

s. 2, 3, 5 in force June 27, 1969 (deemed)

S.N.W.T. 1998,c.21

In force January 31, 1999: SI-001-99

AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:

S.N.W.T. 1999,c.9

In force April 1, 1999

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2012,c.17,s.6

s.6 in force June 8, 2012

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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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COMMISSIONER'S LAND ACT

INTERPRETATION

Definitions

1. In this Act,

"administration agreement" means an agreement referred to in paragraph 3(1)(a); (*entente sur l'administration d'une terre domaniale*)

"Commissioner's land" means lands to which this Act applies; (*terres domaniales*)

"granular materials" include limestone, granite, slate, marble, gypsum, marl, gravel, loam, sand, clay, volcanic ash and stone, but do not include minerals; (*matière granuleuse*)

"judge" means a judge of the Nunavut Court of Justice; (*juge*)

"quarry" means any work or undertaking in which granular materials are removed from the ground or the land by any method, and includes all ways, works, machinery, plant, buildings and premises belonging to or used in connection with the quarry; (*carrière*)

"Sheriff" means the Sheriff appointed under the *Judicature Act*. (*shérif*)
S.N.W.T. 1994,c.23,s.2; S.Nu. 2012,c.17,s.6(2).

APPLICATION

Lands to which Act applies

- 2.** (1) Subject to subsection (2), this Act applies in respect of the following:
- (a) all roads, streets, lanes and trails on public lands;
 - (b) lands acquired by Nunavut with territorial funds or pursuant to tax sale proceedings;
 - (c) lands situated in Nunavut that had been acquired before April 1, 1999 by the Northwest Territories with territorial funds or pursuant to tax sales proceedings; and
 - (d) public lands situated in Nunavut whose administration and control had been transferred before April 1, 1999 by the Governor in Council to the Northwest Territories.

Exception

(2) This Act does not apply in respect of any mines or minerals under or within the lands described in subsection (1). S.Nu. 2012,c.17,s.6(3).

DISPOSITION OF COMMISSIONER'S LAND

Disposition of Commissioner's land

3. (1) Subject to this Act, the Commissioner may authorize the sale, lease or other disposition of Commissioner's land, including

- (a) an agreement delegating responsibility for the administration of Commissioner's land to a municipal corporation or any other person; and
- (b) a permit authorizing the removal of granular materials from a quarry on Commissioner's land.

Quarries

(1.1) For greater certainty, the Commissioner may, under subsection (1), authorize a lease or an administration agreement that provides for the establishment, operation and restoration of a quarry on Commissioner's land and for the issuance of a permit referred to in paragraph 3(1)(b).

Agreements

(2) Agreements providing for the disposition of Commissioner's land must be

- (a) in writing;
- (b) signed by the Commissioner or the authorized agent of the Commissioner; and
- (c) sealed with the Seal.

Permits need not be sealed

(2.1) Paragraph (2)(c) does not apply to a permit referred to in paragraph (1)(b).

Plan of survey

(3) No Commissioner's land shall be sold until a duly approved plan of survey of the land has been filed in the land titles office for the registration district in which the land is located. R.S.N.W.T. 1988,c.8(Supp.),s.203; S.N.W.T. 1994,c.23,s.3,3.1.

Powers of Commissioner

4. The Commissioner may

- (a) order the withdrawal of any tract or tracts of Commissioner's land from disposal under this Act on setting out the reasons for withdrawal in the order; and
- (b) set apart and reserve Commissioner's land for public or other purposes.

TRESPASS ON COMMISSIONER'S LAND

Trespass

- 5.** (1) An application for a summons under subsection (1.1) may be made where
- (a) in the opinion of the Commissioner, a person is wrongfully or without lawful authority, using, possessing or occupying Commissioner's land; or
 - (b) the right of a person to use, possess or occupy Commissioner's land has been forfeited and the person continues to use, possess or occupy or fails to deliver up possession of the Commissioner's land.

Application for summons to vacate Commissioner's land

(1.1) The Commissioner or a person authorized by the Commissioner may apply to a judge for a summons calling on the person described in subsection (1) to

- (a) vacate without delay or abandon and cease using, possessing or occupying the Commissioner's land; or
- (b) within 30 days after service of the summons on that person, show cause why an order or warrant should not be made or issued for that person's removal from the Commissioner's land.

Order or warrant for summary removal

(2) A judge may make an order or issue a warrant for the summary removal of the person named in the summons from the Commissioner's land where, within 30 days after the service of the summons, the person

- (a) has not vacated or abandoned and ceased using, possessing or occupying the Commissioner's land; or
- (b) has not shown cause why he or she should remain in possession or occupation of the Commissioner's land.

Disposition of buildings or improvements

(3) The judge may include in the order or warrant referred to in subsection (2) an order as to the disposition of any buildings or improvements situated on the lands mentioned in the order or warrant.

Execution of warrant

(4) A warrant issued under subsection (2) shall be executed by the Sheriff, a bailiff or member of the Royal Canadian Mounted Police or other person to whom it is delivered for that purpose and that person has all the powers, rights, immunities and privileges of a peace officer in the execution of his or her duty.

Removal from land

(5) A person to whom an order or warrant is addressed shall without delay remove from the land mentioned in the order or warrant the person named in the order or warrant, all members of that person's family and all employees, labourers, tenants and other persons employed by or living with that person or with the tenants of that person.

Service of summons or warrant

- (6) Service of a summons or warrant under this section may be made
- (a) by leaving a copy with an adult found on the land mentioned in the summons or warrant and by posting up another copy in a conspicuous place on that land; or
 - (b) where no adult is found on the land mentioned in the summons or warrant, by posting up copies in two conspicuous places on that land.
- S.Nu. 2012,c.17,s.6(4),(5).

Offence and punishment

6. Every person who remains on Commissioner's land or returns to it or assumes any possession or occupancy of it after having been ordered to vacate it or after having been removed from it under section 5, is guilty of an offence punishable on summary conviction.

MISCELLANEOUS

Receipt for fees on application

7. A receipt for payment made on the filing of an application to purchase or lease land does not entitle the person making the payment to take, occupy or use the land described in the receipt.

Interest

8. Where interest is payable by virtue of this Act or for or on account of any claim, matter or thing arising under any provision of this Act, the rate of interest is the rate prescribed under subsection 17(1) of the *Financial Administration Act*, whether or not that interest is payable under the terms of any sealed or unsealed instrument.

8.1. Repealed, S.N.W.T. 1994,c.23,s.4.

OFFENCE AND PUNISHMENT

9. Repealed, S.N.W.T. 1998,c.21,s.3(3). S.N.W.T. 1998,c.21,s.3(2)

Offence and punishment

10. Every person who contravenes this Act or the regulations is guilty of an offence punishable on summary conviction.

APPEAL

Appeal

11. An order or judgment of a judge in an action or proceeding under this Act is subject to an appeal by a party to the action or proceeding in the same manner as any other order or judgment of a judge.

REGULATIONS AND ORDERS

Regulations

12. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) authorizing a person to make any disposition of Commissioner's land referred to in subsection 3(1) subject to any prescribed limitations and conditions;
- (b) respecting the limitations and conditions that are applicable to any disposition of Commissioner's land referred to in subsection 3(1);
 - (b.1) respecting the establishment, operation and restoration of a quarry on Commissioner's land;
 - (b.2) respecting the removal and use of granular materials from Commissioner's land generally;
 - (b.3) respecting the prices, fees, rents, royalties and other charges payable in respect of or under any disposition of Commissioner's land referred to in subsection 3(1);
 - (b.4) respecting the protection, control and use of Commissioner's land generally;
- (c) prescribing a tariff of fees for copies of maps, plans, field notes, documents, papers and other records pertaining to Commissioner's land, for the preparation of documents evidencing a sale, lease or other disposition of Commissioner's land and for the registration of any documents pertaining to Commissioner's land; and
- (d) respecting the forms of leases, agreements for sale, licences and other documents required for use under this Act.

S.N.W.T. 1994,c.23,s.5.

Regulations and orders

13. The Commissioner, on the recommendation of the Minister, may make regulations and orders

- (a) respecting any question affecting Commissioner's land under which persons designated in the regulations or orders may inquire into a question affecting Commissioner's land and may, for the purposes of the inquiry, summon and bring before them any person whose attendance they consider necessary to the inquiry, examine that person under oath, compel the production of documents and do all things necessary to provide a full and proper inquiry; and

- (b) as are considered necessary for carrying out the purposes and provisions of this Act.

TRANSFER OF INTERESTS AND OBLIGATIONS

Definition of "right, title or interest in land"

14. (1) In this section, "right, title or interest in land" includes any caveat, claim of lien or other claim of any right, title or interest in land, but does not include a writ.

Interests held by the Commissioner

(2) A right, title or interest in land situated in Nunavut that is referred to in section 14 of the *Commissioner's Land Act* (Northwest Territories) is recognized as being validly transferred to and shall be held by the Commissioner under the laws of Nunavut.

Obligations of the Commissioner

(3) Any requirement, obligation or liability referred to in section 14 of the *Commissioner's Land Act* (Northwest Territories) is recognized as being validly transferred to the Commissioner and the Commissioner shall be subject to or liable for any such requirement, obligation or liability under the laws of Nunavut.

Deemed references to the Commissioner

(4) For greater certainty, any reference to the Commissioner of the Northwest Territories in any instrument pertaining to any right, title or interest in land situated in Nunavut that was executed but not registered under the *Land Titles Act* (Northwest Territories) before April 1, 1999, is deemed to be a reference to the Commissioner. S.N.W.T. 1999,c.9,Sch.I,s.1.