

## Chapter 7

### CANNABIS ACT

(Assented to June 13, 2018)

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

#### INTERPRETATION

##### Purpose

1. The purpose of this Act is to regulate cannabis, including by establishing prohibitions related to cannabis, in order to

- (a) protect the health and safety of Nunavummiut, especially minors;
- (b) provide for the safe distribution of cannabis to adults;
- (c) combat the illegal market for cannabis; and
- (d) increase awareness of the risks associated with cannabis.

##### Definitions

2. (1) In this Act,

"Agent" means an Agent of the Commission appointed under subsection 5(1); (*vendeur autorisé*)

"Board" means the Liquor and Cannabis Board established under subsection 3(1) of the *Liquor Act*; (*Commission*)

"cannabis" has the same meaning as in the federal Act; (*cannabis*)

"cannabis accessory" has the same meaning as in the federal Act; (*accessoire*)

"cannabis lounge" means a physical commercial establishment where cannabis is sold under the authority of this Act for consumption on the premises, but does not include premises for which a temporary licence has been issued; (*salon de cannabis*)

"cannabis plant" has the same meaning as in the federal Act; (*plante de cannabis*)

"cannabis store" means a physical commercial establishment where cannabis is sold under the authority of this Act for consumption off the premises, but does not include premises for which a temporary licence has been issued; (*magasin de cannabis*)

"Commission" means the Liquor and Cannabis Commission established under subsection 56(2) of the *Liquor Act*; (*Société*)

"consume", in relation to cannabis, means use in or on a person's body, including by

- (a) smoking cannabis,
- (b) ingesting cannabis in any manner,
- (c) applying cannabis onto or into any part of one's body or another person's body, or
- (d) having an object that is applying cannabis onto or into any part of one's body or another person's body; (*consommer*)

"contract" means a contract under subsection 5(1) or 8(8); (*contrat*)

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"contravene", for greater certainty, includes fail to comply with; (*contrevenir*)

"cultivate", with respect to cannabis plants, includes harvest and propagate; (*cultiver*)

"dwelling" means a dwelling-house as defined in section 2 of the *Criminal Code*; (*lieu d'habitation*)

"federal Act" means the *Cannabis Act* (Canada); (*loi fédérale*)

"forfeitable cannabis" means cannabis that

- (a) is in the possession of a minor,
- (b) is being consumed in contravention of this Act, the regulations, or any other Act or regulation,
- (c) is stored contrary to this Act, the regulations or the conditions of a licence, or
- (d) is possessed in excess of the possession limits established by regulation;  
(*cannabis confiscable*)

"illicit cannabis" means cannabis that is or was imported, provided, distributed, cultivated or produced in contravention of this Act, the regulations, the federal Act or another applicable federal enactment;  
(*cannabis illicite*)

"inspector" means an inspector appointed under section 37; (*inspecteur*)

"intoxicated person" means an individual who appears to be intoxicated by alcohol, cannabis or another drug; (*personne intoxiquée*)

"licence" means a licence issued under section 8; (*licence*)

"licence fee" means the applicable licence fee established under the regulations; (*droits de licence*)

"licenced establishment" means

- (a) a cannabis store operated under a licence,
- (b) a cannabis lounge operated under a licence,
- (c) a remote sales store operated under a licence, or
- (d) premises for which a temporary licence has been issued;  
(*établissement autorisé*)

"licensee" means a person issued a licence; (*titulaire de licence*)

"provide" includes sell, give or offer; (*fournir*)

"public place" means

- (a) any place to which the public has access as of right or by invitation, express or implied, and
- (b) any motor vehicle located in a public place or in any place open to public view;  
(*lieu public*)

"remote sales store" means a commercial establishment that sells cannabis under the authority of this Act in such a manner that the purchase or sale and the delivery of cannabis do not occur at the same time and at the same place, and includes the means of delivery whether controlled by the same person or another person under contract; (*magasin de vente à distance*)

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"sale", in relation to cannabis, means the supply or distribution of cannabis for money or other consideration, including by way of exchange, barter, or traffic of cannabis, and also includes the offering for sale or possession for the purpose of selling cannabis; (*vente*)

"smoke" has the same meaning as in the *Tobacco Control and Smoke-Free Places Act*; (*fumer*)

"Superintendent" means the Superintendent of Licensing appointed under section 7; (*surintendant*)

"warrant" includes a telewarrant issued on information submitted by telephone or other means of telecommunication in the manner provided for in section 487.1 of the *Criminal Code*, with any modifications that the circumstances require. (*mandat*)

### Consume

(2) For greater certainty, in this Act, the term "consume" is not to be interpreted to include the continued presence of cannabis in or on one's body.

### Equivalency

(3) A reference in this Act or the regulations to a quantity of dried cannabis includes a reference to an equivalent amount of another class of cannabis as determined in accordance with Schedule 3 of the federal Act.

### Application to conduct authorized under federal Act

**3.** (1) This Act does not apply to an activity respecting cannabis that is conducted under the authority of a licence, permit, authorization, order or exemption under the federal Act.

### Subject to federal Act

(2) For greater certainty, this Act operates subject to the federal Act and other applicable Acts of Canada, to the extent required by sections 23 and 26 of the *Nunavut Act* (Canada).

### Application to cannabis for medical, research and education purposes

(3) Except as otherwise provided under this Act, this Act does not apply to the provision, purchase, possession or consumption of cannabis for

- (a) medical purposes under the authority of applicable federal law; or
- (b) research or educational purposes as permitted in the regulations.

## COMMISSION AND AGENTS

### Establishing retail sales channels

**4.** (1) The Commission may, in accordance with the regulations, establish and operate, for the purpose of selling cannabis to adults,

- (a) subject to subsection (2), cannabis stores; and
- (b) remote sales stores.

### Community consultation – cannabis stores

(2) The Commission shall not establish a cannabis store in a municipality unless

- (a) notice under section 6 has been given; and
- (b) following the notice period under section 6, the Minister permits the establishment of the cannabis store.

Minister's direction

(3) Despite any other provision of this Act, the Commission, in exercising its powers and performing its duties under this Act, shall act under the direction of the Minister.

Agents

5. (1) The Commission may, by contract, appoint a person to act as its Agent to operate a cannabis store or a remote sales store established under subsection 4(1).

Prohibited Agents

- (2) The following shall not be appointed as Agents:
- (a) a minor;
  - (b) an employee of the Board or the Commission;
  - (c) a licensee or their employee;
  - (d) a person who does not meet the conditions prescribed by regulation for Agents.

Revocation of Agents

(3) The Commission may, in its discretion, terminate a contract appointing an Agent.

Same

(4) The Commission shall terminate a contract appointing an Agent if the Agent becomes a person described in paragraphs (2)(b) to (d).

Accountability

- (5) When terminating a contract appointing an Agent, the Commission may require the Agent
- (a) to provide a strict accounting of all funds;
  - (b) to produce records relating to their operations under this Act; and
  - (c) to return all cannabis held by them as Agent to the place that the Commission may designate.

Compliance

(6) An Agent shall comply with a requirement made under subsection (5).

Removal by Commission

(7) Where an Agent fails to comply with a requirement under paragraph (5)(c), the Commission may arrange for the removal of all cannabis held by them as Agent, and the Agent shall be responsible for the costs incurred by the Commission with respect to the removal.

Required contract terms

- (8) A contract appointing an Agent must include terms respecting
- (a) the sale of cannabis on behalf of the Commission;
  - (b) if applicable, the purchase of cannabis on behalf of the Commission;
  - (c) if applicable, the importation of cannabis into Nunavut by the Agent;
  - (d) the operation of a cannabis store or a remote sales store on behalf of the Commission; and
  - (e) other matters as required by the regulations.

Extraterritorial Agent's contract

(9) A contract appointing an Agent who will undertake some or all of its activities as Agent outside Nunavut must include the following terms:

- (a) a requirement that the Agent comply with the provisions of this Act and the regulations, including when undertaking activities outside Nunavut as Agent;

- (b) an authorization from the Agent authorizing the inspection of any of the Agent's records or premises, whether inside or outside Nunavut, for the purpose of ensuring compliance with the provisions of this Act and the regulations and the terms of the contract;
- (c) a requirement that the Agent produce records relating to their operations under this Act and the contract at the request of an inspector or the Commission;
- (d) the automatic termination of the contract, upon the revocation of the appointment the Agent under subsection (3) or (4);
- (e) a requirement that, upon the revocation of the appointment of the Agent under subsection (3) or (4), the Agent return to the Commission all cannabis held by them as Agent;
- (f) other terms required by the regulations.

Nunavut law

(10) A contract appointing an Agent must provide that it is governed by the laws of Nunavut.

Other terms

(11) A contract appointing an Agent may, at the discretion of the Commission, include any term not otherwise required to be included in the contract under this Act.

Agent's vested right in a contract

(12) An Agent does not have a vested right in the continuance of a contract appointing them as Agent, and on the termination of the contract, the value of the contract shall not be capitalized.

## COMMUNITY CONSULTATIONS

Notice of establishment of cannabis store

**6.** (1) The Minister shall, for the purpose of ascertaining the views of the residents of a municipality, give notice under subsection (2)

- (a) at least 90 days prior to permitting
  - (i) the establishment of a cannabis store by the Commission in the municipality if there is no cannabis store operating in the municipality,
  - (ii) the issuance of a licence to operate a cannabis store in the municipality if there is no cannabis store operating in the municipality, or
  - (iii) the issuance of a licence to operate a cannabis lounge in the municipality if there is no cannabis lounge operating in the municipality; or
- (b) at least 60 days prior to permitting
  - (i) the establishment of a cannabis store by the Commission in the municipality if there is a cannabis store operating in the municipality,
  - (ii) the issuance of a licence to operate a cannabis store in the municipality if there is a cannabis store operating in the municipality, or
  - (iii) the issuance of a licence to operate a cannabis lounge in the municipality if there is a cannabis lounge operating in the municipality.

Persons and bodies receiving notice

(2) The Minister shall give notice under subsection (1) by

- (a) sending a notice to
    - (i) the municipal council, and
    - (ii) any other person or body the Minister considers should receive notice;
- and

- (b) posting notices in as many conspicuous places in the municipality as are reasonably necessary to bring the notice to the attention of the public.

Consideration of views

(3) The Minister shall consider the views expressed to the Minister during the notice period under subsection (1) by

- (a) the municipal council and other persons or bodies to whom notice was sent under this section; and
- (b) the residents of the municipality.

Non-exclusive consultation

(4) The Minister may use additional consultative processes in determining whether or not to take any action referred to in subsection (1), and may consider the views expressed by persons partaking in such consultative processes.

Exception – transfer of licence

(5) For greater certainty, this section does not apply to the transfer of a licence under section 11.

## LICENSING

### Superintendent of Licensing

Appointment

7. (1) The Minister shall appoint a Superintendent of Licensing.

Restriction

- (2) The Superintendent of Licensing must
- (a) be a member of the public service; and
  - (b) not be an employee of the Commission.

### Issuance

Application for a licence

8. (1) Subject to this Act and the regulations, a person may submit an application for a licence, accompanied by the licence fee, to the Superintendent to operate, for the purpose of selling cannabis to adults,

- (a) a cannabis store;
- (b) a remote sales store; or
- (c) a cannabis lounge.

Application for a temporary licence

(2) Subject to this Act and the regulations, a person may submit an application for a temporary licence, accompanied by the licence fee, to the Superintendent for the purpose of selling cannabis to adults, consumption of cannabis by adults, or both.

Validity of temporary licence

- (3) A temporary licence issued under subsection (4)
- (a) may be issued for a maximum of 96 hours; and
  - (b) may, during the period for which it is issued, be in effect and authorize the sale or consumption of cannabis, or both, for a maximum of 12 hours during any 24 - hour period.

Issuance of licences

(4) Subject to this Act and the regulations, the Superintendent may, on receipt of an application for a licence accompanied by the licence fee under subsection (1) or (2), issue a licence to the applicant.

Community consultations – cannabis stores and lounges

(5) The Superintendent shall not issue a licence for a cannabis store or a cannabis lounge in a municipality unless

- (a) notice under section 6 has been given; and
- (b) following the notice period under section 6, the Minister permits the issuance of the licence.

Conditions

(6) Upon issuing a licence, the Superintendent may impose, in accordance with the regulations, any conditions that the Superintendent considers necessary for the proper operation of the licenced establishment.

Prohibited licensees

(7) A licence may not be issued to

- (a) a minor;
- (b) an employee of the Board, the Commission or an Agent;
- (c) an Agent; or
- (d) a person who does not meet the conditions prescribed by regulation for applicants.

Extraterritorial licensee's contract

(8) Prior to issuing a licence to a person who will undertake some or all of the activities authorized by the licence outside Nunavut, the Superintendent shall enter into a contract with the licensee to establish the terms under which the licensee is authorized to operate under this Act, including

- (a) a requirement that the licensee comply with the provisions of this Act and the regulations and the conditions of their licence, including when undertaking activities outside Nunavut pursuant to the licence;
- (b) an authorization from the licensee authorizing the inspection of the licensee's records or premises, whether inside or outside Nunavut, for the purpose of ensuring compliance with the provisions of this Act and the regulations and the conditions of their licence;
- (c) a requirement that the licensee produce records relating to their operations under this Act, their licence and the contract at the request of an inspector or the Superintendent;
- (d) a requirement that the licensee pay any administrative penalties established under this Act that are levied against the licensee;
- (e) the automatic termination of the contract, without penalty payable by the Superintendent, upon revocation or non-renewal of the licensee's licence under this Act;
- (f) a requirement that, upon revocation or non-renewal of the licensee's licence under this Act, the licensee dispose of all cannabis held by them in Nunavut in accordance with subsection 18(2); and
- (g) other terms required by the regulations.

Nunavut law

(9) A contract referred to in subsection (8) must provide that it is governed by the laws of Nunavut.

Conditions and validity

Conditions

- 9.** (1) A licence is subject to any conditions imposed on the licence
- (a) upon issuance by the Superintendent;
  - (b) under subsection (2);
  - (c) under section 14 or 15; and
  - (d) under the regulations.

Licence fees

(2) It is a condition of every licence that the licensee pays all licence fees.

Exemption for provincial and territorial corporations

(3) The Superintendent may exempt a licence issued to a corporation wholly owned by the government of a province or another territory from any condition imposed by the regulations.

Notation on licence

- (4) A licence must indicate
- (a) any conditions which apply to it; and
  - (b) if subsection (3) applies, any exemption given under that subsection.

Conditions in regulations have immediate effect

(5) For greater certainty, conditions on licences imposed by the regulations apply immediately upon the coming into force of the regulations, despite not being indicated on a licence.

Validity

- 10.** (1) A licence is valid
- (a) only for the licensee, and in respect of the licenced establishment, for which it is granted; and
  - (b) only until the earlier of the following:
    - (i) the end of the licence period,
    - (ii) the day on which the licensee ceases to be the owner or lessee of the business carried on at the licenced establishment.

Void by operation of law

- (2) A licence is voided by operation of law if
- (a) the licensee
    - (i) in the case of an individual, dies, or
    - (ii) in the case of a corporation, is dissolved;
  - (b) the licensee sells or otherwise assigns the licenced establishment or the premises in respect of which the licence was granted;
  - (c) the licensee is, by operation of law, dispossessed of the licenced establishment or premises in respect of which the licence was granted;
  - (d) the licensee relinquishes the licence; or
  - (e) the premises in respect of which the licence was granted are substantially destroyed.

### Sale

(3) For the purposes of paragraph (2)(b), the following are considered a sale of a licenced establishment in respect of which the licence was granted:

- (a) if the licensee is a corporation as defined in the *Business Corporations Act*, a sale or other trade of shares of the corporation that results in a change of individuals who control the operations of the corporation in whole or in part, directly or indirectly;
- (b) if the licensee is a partnership, a change of individuals who control the operations of the partnership in whole or in part, directly or indirectly.

### Reporting issuer

(4) For the purposes of this subsection and paragraph (3)(a), a change in the individuals who control the operations of a reporting issuer as defined in the *Securities Act* occurs when

- (a) there is a change in the control persons of a reporting issuer as defined in that Act; or
- (b) if a control person of the reporting issuer is a corporation as defined in the *Business Corporations Act*, there is a sale or other trade of shares of the control person that results in a change of individuals who control the operations of the control person in whole or in part, directly or indirectly.

### Relinquishment

(5) Subject to the regulations and the conditions of their licence, a licensee may relinquish their licence at any time.

## Transfer of licences

### Application for transfer

**11.** (1) Subject to this Act and the regulations, a person may submit to the Superintendent an application, accompanied by the licence fee, to transfer the licence to operate a licenced establishment to

- (a) another person; or
- (b) the same person, if the licence has or will become void by operation of subsection 10(3).

### Timing of application

(2) An application under subsection (1) may be submitted

- (a) while the licence is valid; or
- (b) within 30 days after the licence becomes void under paragraphs 10(2)(a) to (c).

### Transfer of licence

(3) Subject to this Act and the regulations, the Superintendent may, on receipt of an application for a licence under subsection (1), accompanied by the licence fee, transfer the licence to operate the licenced establishment to the applicant.

### Transfer of void licence

(4) If a licence transferred under this section had become void under paragraphs 10(2)(a) to (c) prior to the transfer, the licence is deemed to no longer be void as of the day the Superintendent transfers the licence under subsection (3).

### Conditions and licence period

(5) A licence transferred under this section remains subject to the same conditions and licence period that it was subject to prior to the transfer.

Applicable provisions

(6) Subsections 8(7) to (9) apply to a licence transfer under this section.

Renewal

Application

**12.** (1) This section and section 13 do not apply to temporary licences.

Application to renew licence

(2) A licensee who wishes to renew their licence shall, not earlier than three months, nor later than two months, before the end of the licence period submit an application to renew the licence to the Superintendent accompanied by the licence fee.

Requirement to renew

(3) Following receipt of a renewal application and the licence fee, the Superintendent shall renew a licence only if

- (a) the Superintendent is satisfied that
  - (i) the licensee has complied with requirements of this Act and the regulations and the conditions of the licence, or
  - (ii) the licensee has not complied with the requirements of this Act or the regulations or the conditions of the licence, but the failure to comply has not been sufficiently significant to justify non-renewal; and
- (b) the Superintendent is satisfied that there is no other compelling reason not to renew the licence.

Non-renewal

(4) If the conditions in paragraphs (3)(a) and (b) are not met, the Superintendent shall not renew a licence.

Notice

(5) When the Superintendent does not renew a licence following an application under this section, the Superintendent shall, in accordance with the regulations, serve a notice on the licensee which provides the following information:

- (a) the reasons for non-renewal;
- (b) information on how to appeal the non-renewal to the Board.

Appeal of non-renewal

**13.** (1) A licensee who is served a notice of non-renewal under subsection 12(5) may, within 30 days of the date on which the notice is served on the licensee, appeal non-renewal to the Board in accordance with the regulations.

Extension of licence period

(2) If a licence expires while an appeal under this section is pending with respect to the non-renewal of the licence, the licence period of the licence is extended until a decision is made under subsection (5), unless the chairperson of the Board determines otherwise.

Hearing

(3) The Board shall hold a hearing to consider any submissions of the Superintendent and the licensee, and any other evidence of which it is aware, without delay after an appeal has been made under subsection (1).

### Representation

(4) The Superintendent and the licensee may be represented at the hearing by agent or legal counsel.

### Decision

(5) As soon as practicable after the hearing, the Board shall make one of the following decisions in writing, taking into account any representations or other evidence received:

- (a) if the Board considers the Superintendent's decision to not renew reasonable, confirm the non-renewal;
- (b) if the Board considers the Superintendent's decision to not renew unreasonable, renew the licence, which
  - (i) must include all the conditions of the licence to be renewed, and
  - (ii) at the discretion of the Board, may include additional or more restrictive conditions.

### Notice of decision

(6) The Board shall, not later than five days after the decision under subsection (5) is made

- (a) serve notice in writing of the decision, and the reasons for it, on the Superintendent and the licensee; and
- (b) post the decision and the reasons for it on an Internet website maintained by or for it.

## Variation

### Application

**14.** (1) A licensee may submit an application to vary the conditions of the licence, other than conditions imposed by this Act or the regulations, to the Superintendent accompanied by the licence fee.

### Provincial and territorial corporations

(2) A licensee that is a corporation wholly owned by the government of a province or another territory may submit an application to the Superintendent, accompanied by the licence fee, to vary the conditions of the licence imposed by the regulations.

### Variation

(3) Following receipt of a variation application and the licence fee but subject to the regulations, the Superintendent may vary the conditions of a licence and issue a new licence indicating the conditions of the licence as varied.

## Sanctions

### Contravention

**15.** (1) If the Superintendent has reasonable grounds to believe that a licensee has contravened this Act, the regulations, a condition of their licence or a term of their contract, the Superintendent may

- (a) issue a warning to the licensee;
- (b) order the licensee to pay an administrative penalty in accordance with the regulations;
- (c) vary the conditions of the licence, other than conditions imposed by this Act or the regulations, including by the addition of new conditions in accordance with the regulations; or

- (d) suspend the licence, either continuously or intermittently, for a period or periods not exceeding a total of three months, and, at the discretion of the Superintendent, require that the licensee dispose of all cannabis held by them in Nunavut in accordance with subsection 18(2).

#### Employees or agents

(2) For the purposes of this section and sections 16 and 17, a contravention by an employee or agent of a licensee is deemed to be a contravention by the licensee.

#### Limits on warnings

- (3) A Superintendent may not issue a warning under paragraph (1)(a) if
  - (a) the contravention is more serious than a contravention that would warrant a simple warning; or
  - (b) the contravention is of a type in respect of which a warning has already been given to the licensee.

#### Multiple administrative penalties

- (4) An order under paragraph (1)(b) may provide for the payment of
  - (a) a separate administrative penalty for each occurrence of a contravention; and
  - (b) a separate administrative penalty for each provision of this Act or the regulations or each condition of a licence that was not complied with.

#### Former licensee

(5) The Superintendent may order a former licensee to pay an administrative penalty under paragraph (1)(b) with respect to the former licensee's conduct while they were a licensee.

#### Failure to pay administrative penalty

- (6) If a licensee fails to pay an administrative penalty as ordered under paragraph (1)(b) or into court under subsection 17(3) within 30 days of the serving of the notice under subsection (10),
  - (a) the Superintendent may suspend the licence until the administrative penalty is paid;
  - (b) the order may be filed with the Nunavut Court of Justice and enforced as if it were an order of the court; and
  - (c) the administrative penalty is a debt to the Government of Nunavut and is enforceable as such.

#### Compliance with requirement

- (7) A licensee shall comply with a requirement made under paragraph (1)(d).

#### Cancellation of licence

- (8) The Superintendent may cancel a licence if
  - (a) a licensee has contravened this Act, the regulations or a condition of their licence; and
  - (b) the contravention, whether alone or in combination with previous contraventions, is so serious that it is not appropriate impose one of the sanctions under subsection (1).

#### Same

(9) The Superintendent shall cancel a licence if the licensee becomes a person described in paragraphs 8(7)(b) to (d).

### Notice

(10) When imposing a sanction under subsection (1), (6), (8) or (9), the Superintendent shall, in accordance with the regulations, serve a notice on the licensee or former licensee which provides the following information:

- (a) the sanction;
- (b) the reason for the sanction;
- (c) the consequences to the licensee of the sanction;
- (d) in the case of an administrative penalty, a copy of the order indicating
  - (i) the amount of the penalty and the date before which it must be paid,
  - (ii) if applicable, notice that the licensee's licence may be suspended for non-payment of the administrative penalty, and
  - (iii) information on how to appeal to the Nunavut Court of Justice;
- (e) in the case of a variation of the conditions of a licence, the text of the varied or new conditions;
- (f) in the case of a suspension, the period or periods of the suspension;
- (g) in the case of a cancellation, the effective date of the cancellation;
- (h) in the case of a variation, suspension or cancellation, other than under subsection (6), information on how to appeal to the Board.

### Sanction does not preclude conviction

(11) A licensee or former licensee against whom a sanction has been imposed under this section may also be charged with and convicted of an offence under this Act for the same matter.

### Appeal to Board – variances, suspensions and cancellations

**16.** (1) A licensee whose licence is subject to the imposition of a sanction under paragraphs 15(1)(c) or (d) or subsection 15(8) or (9), may, within 30 days of the date on which the notice of the sanction is served on the licensee, appeal the sanction to the Board in accordance with the regulations.

### Stay

(2) An appeal under this section stays any sanction that is being appealed, unless the chairperson of the Board determines otherwise.

### Destruction, forfeiture or removal of cannabis

(3) Despite any other provision of this Act, if a licensee is required to dispose of all cannabis held by them in Nunavut in accordance with subsection 18(2) as a result of a sanction being appealed under this section that is not stayed under subsection (2),

- (a) the requirement is stayed pending appeal; and
- (b) the licensee may not sell or otherwise dispose of the cannabis pending appeal, except in accordance with subsection 18(2).

### Hearing

(4) The Board shall hold a hearing to consider any submissions of the Superintendent and the licensee, and any other evidence of which it is aware, without delay after an appeal has been made under subsection (1).

### Representation

(5) The Superintendent and the licensee may be represented at the hearing by agent or legal counsel.

Decision

(6) As soon as practicable after the hearing, the Board shall make one of the following decisions in writing, taking into account any representations or other evidence received:

- (a) if the Board considers the imposition of the sanction to be reasonable, confirm the imposition of the sanction;
- (b) if the Board considers the imposition of the sanction to be unreasonable,
  - (i) reverse the imposition of the sanction,
  - (ii) vary the sanction, or
  - (iii) impose a different sanction allowed or required under subsections 15(1), (8) or (9).

Destruction, forfeiture or removal of cannabis

(7) A decision under subsection (6) may include an order that the licensee dispose of all cannabis held by them in Nunavut in accordance with subsection 18(2).

Compliance with order

(8) A licensee shall comply with an order made under subsection (7).

Notice of decision

(9) The Board shall, not later than five days after the decision under subsection (6) is made

- (a) serve notice in writing of the decision, and the reasons for it, on the Superintendent and the licensee; and
- (b) post the decision and the reasons for it on an Internet website maintained by or for it.

Appeal to Court – administrative penalty

**17.** (1) Subject to subsection (3), a licensee on whom an administrative penalty has been imposed by an order made under paragraph 15(1)(b) may, within 30 days of the date on which the notice of the sanction is served on the licensee, appeal the order to the Nunavut Court of Justice.

Party

(2) The Superintendent is a party to an appeal under this section.

Payment into court

(3) An appeal under subsection (1) may only be made after the licensee pays the amount of the administrative penalty into court pending appeal.

Decision

- (4) The amount paid into court under subsection (3) shall,
- (a) if the appeal is granted, be returned to the licensee; or
  - (b) if the appeal is not granted, be deposited in the Consolidated Revenue Fund.

Question on appeal

(5) The questions on appeal under this section shall be limited to jurisdiction and whether the licensee or their employee or agent committed the act or omission that constitutes the contravention for which the administrative penalty was imposed.

Absolute liability

- (6) In an appeal under this section,
- (a) the standard of review is reasonableness;
  - (b) a finding of fact or the discharge of a presumption is to be made on a balance of probabilities;

- (c) no proof of intention, negligence or other mental element is required for a finding that a licensee contravened this Act, the regulations or a condition of their license; and
- (d) no defence of due diligence or other defence based on a mental element shall be admitted or used to rebut a finding that a licensee contravened this Act, the regulations or a condition of their license.

#### Disposition of cannabis by licensees

##### Requirement to dispose

- 18.** (1) A former licensee, or their successor, shall dispose of all cannabis held by them in Nunavut in accordance with subsection (2) as soon as practicable after
- (a) their licence has expired without being renewed;
  - (b) their licence has been voided by operation of the law, unless a transfer application under section 11 is pending;
  - (c) they have relinquished their licence; or
  - (d) subject to subsection 16(3), their licence has been cancelled.

##### Disposal of cannabis

- (2) If, under this Act, a licensee, former licensee or successor is required to dispose of cannabis in accordance with this subsection, they shall do so in one of the following ways:
- (a) selling or giving the cannabis to another licensee;
  - (b) forfeiting the cannabis to the Government of Nunavut;
  - (c) destroying the cannabis in a safe manner and in accordance with the regulations;
  - (d) removing the cannabis from Nunavut.

#### Privative clause

##### Privative clause

- 19.** (1) The following decisions are final and binding on the Agent, applicant or licensee and, subject to subsection (2), shall not be questioned, reviewed or restrained by any proceeding in the nature of an application for judicial review or otherwise in any court:
- (a) the termination a contract appointing an Agent;
  - (b) the failure to issue a licence under subsection 8(4);
  - (c) the imposition of conditions when a licence is initially issued under subsection 8(6);
  - (d) the failure to vary a licence under section 14;
  - (e) a warning issued under paragraph 15(1)(a).

##### Jurisdiction

- (2) On a question of jurisdiction only, a decision referred to in subsection (1) is reviewable on an application for judicial review made in accordance with the *Rules of the Nunavut Court of Justice*.

#### Rights with respect to licences

##### Property of government

- 20.** (1) A licence is the property of the Government of Nunavut, and if a licence is cancelled, suspended or expired, the licensee or former licensee shall return it to the Superintendent as soon as practicable.

Vested right in licence

(2) A licensee does not have a vested right in the continuance of a licence, and on the issue, renewal, cancellation or suspension of a licence, the value of the licence shall not be capitalized.

Annual report on licensing

Annual report on licensing

**21.** (1) Within six months after the end of each fiscal year, the Superintendent shall prepare for and submit to the Minister an annual report on the conduct of licensing under this Act during the fiscal year, including the information that the Minister directs.

Report to be tabled

(2) The Minister shall table the report submitted under subsection (1) in the Legislative Assembly during the first sitting of the Assembly after the report is submitted that provides a reasonable opportunity for tabling the report.

PROHIBITIONS AND REQUIREMENTS

General

Sale

**22.** (1) A person shall not sell cannabis.

Exception for Commission, Agents and licensees

(2) Subject to subsection (3), subsection (1) does not apply to the Commission, an Agent or a licensee, including

- (a) their authorized employees in the course of their employment; and
- (b) persons operating the means of delivery of a remote sales store whether controlled by the same person or another person under contract.

Authorized producer

(3) A person referred to in subsection (2) may only sell cannabis produced by a person that is authorized under the federal Act to produce cannabis for commercial purposes.

Purchase

**23.** (1) A person shall not purchase cannabis, except from the Commission, an Agent or a licensee, including their authorized employees in the course of their employment.

Exception for Commission, Agents and licensees

(2) Subsection (1) does not apply to the Commission, an Agent or a licensee, including their authorized employees in the course of their employment.

Import

**24.** (1) A person shall not import cannabis into Nunavut, except

- (a) by purchase from a remote sales store; or
- (b) as part of the person's personal effects when travelling to Nunavut, up to the amount of cannabis the person is lawfully allowed to possess in a public place.

Exception for Commission, Agents and licensees

- (2) Subsection (1) does not apply to
- (a) the Commission;
  - (b) an Agent whose contract with the Commission authorizes them to import cannabis into Nunavut;
  - (c) a licensee whose licence authorizes them to import cannabis; or
  - (d) a person delivering, directly or indirectly,
    - (i) a purchase on behalf of a remote sales store; or
    - (ii) cannabis to a person or body referred to in paragraphs (a) to (c).

Provision of cannabis without knowledge or consent

- 25.** (1) A person shall not
- (a) sell or give cannabis to another person who does not know and could not reasonably know it is cannabis; or
  - (b) apply cannabis onto or into any part of another person's body without consent.

Second-hand smoke

(2) For greater certainty, this section does not apply to smoke or vapour that is incidental to smoking cannabis.

Possession of illicit cannabis

- 26.** (1) A person shall not sell, purchase, possess, consume or otherwise deal with illicit cannabis.

Exception

- (2) Subsection (1) does not apply to
- (a) an inspector, peace officer, justice or judge in the exercise of their functions under this Act, the federal Act or another applicable federal enactment; or
  - (b) any person providing assistance under this Act to an inspector, peace officer, justice or judge in the exercise of their functions under this Act, the federal Act or another applicable federal enactment.

No ownership interest in illicit cannabis

(3) No person has any ownership interest with respect to illicit cannabis, even if the person does not know or could not reasonably have known it is illicit cannabis.

Providing to intoxicated persons

- 27.** A person shall not provide cannabis to an intoxicated person.

Storage

**28.** A person who possesses cannabis, including for medical purposes under the authority of applicable federal law, shall store it in accordance with the regulations.

Possession limits

- 29.** A person shall not possess cannabis in excess of the possession limits established by regulation.

- 30. Deleted: 5<sup>th</sup> Legislative Assembly, June 13, 2018.**

### Prohibitions and requirements related to minors

#### Minors prohibited

- 31.** A minor shall not
- (a) provide, purchase, possess, consume or otherwise deal with cannabis or a cannabis accessory;
  - (b) attempt to purchase or otherwise obtain cannabis or a cannabis accessory; or
  - (c) enter or remain in
    - (i) a cannabis store,
    - (ii) a remote sales store,
    - (iii) a cannabis lounge, or
    - (iv) premises for which a temporary licence is in effect.

#### Providing to minors

- 32.** (1) A person shall not provide cannabis or a cannabis accessory to a minor.

#### Inciting minors

- (2) A person shall not incite, procure or otherwise cause a minor to sell, purchase, possess, consume or otherwise deal with cannabis or a cannabis accessory.

#### Knowledge

- (3) This section applies even if the minor appears to be an adult.

#### Proof of age – physical establishments

- 33.** (1) The Commission, an Agent, a licensee or their employees shall request proof of age from
- (a) every person attempting to purchase cannabis, other than from a remote sales store; and
  - (b) every person in or entering a cannabis store, cannabis lounge or premises for which a temporary licence has been issued who appears to be or should reasonably appear to be a minor.

#### No proof of age – physical establishments

- (2) If a person does not provide a proof of age prescribed by regulation when requested to do so under subsection (1), or provides proof of age which indicates the person is a minor, the person making the request
- (a) shall not sell cannabis to the person; and
  - (b) in the case of a cannabis store, cannabis lounge or premises for which a temporary licence has been issued, shall demand that the person leave the premises immediately.

#### Comply with request

- (3) A person shall comply with a demand made to them under paragraph (2)(b).

#### Proof of age – remote sales stores

- (4) A person delivering cannabis purchased from a remote sales store shall request proof of age prior to delivering the cannabis.

#### No proof of age – remote sales store

- (5) If a person does not provide a proof of age prescribed by regulation when requested to do so under subsection (4), or provides proof of age which indicates the person is a minor, the person making the request shall not deliver the cannabis to the person.

Verification of age – remote sales store

(6) Prior to allowing a person to access the means of making a purchase from a remote sales store, the operator of the remote sales store shall verify the age and identity of the person in the manner prescribed by regulation.

False identification

(7) A person shall not provide

- (a) false identification when requested proof of age under subsection (1) or (4); or
- (b) false identification or information for the purpose of verifying age and identity under subsection (6).

Providing false identification

(8) A person shall not knowingly provide a minor with false identification for the purpose of purchasing cannabis, accepting delivery of cannabis or gaining entry to a cannabis store, cannabis lounge or premises for which a temporary licence has been issued.

Exception – law enforcement

**34.** Section 31 and subsection 32(2) do not apply with respect to a minor purchasing or obtaining, or attempting to purchase or obtain, cannabis if

- (a) the minor does so for the purpose of enforcing, or ensuring compliance with, section 32 or 33; and
- (b) a person whose duty it is to enforce or ensure compliance with section 32 or 33 authorizes the minor to take such action.

Prohibitions related to consumption

Prohibited places

**35.** (1) A person shall not consume cannabis in, on, or within the distance prescribed by regulation from

- (a) a hospital or other health facility, including its grounds;
- (b) a school, including its grounds;
- (c) a child day care facility, as defined in the *Child Day Care Act*, including its grounds;
- (d) another place, including a dwelling, where child day care services are provided for money or other consideration, during the times at which the services are being provided;
- (e) a playground;
- (f) a sports or playing field;
- (g) an arena;
- (h) a community hall;
- (i) a recreational centre;
- (j) a public place, other than a cannabis lounge, in which goods or services are sold or otherwise provided to the public;
- (k) a parade, concert or other public event; or
- (l) any other public place that is prescribed or otherwise described in the regulations.

Entrances and exits

(2) If a place referred to in subsection (1) is a building or is in a building, the distance under that subsection is only measured from each outside entrance and exit of the building.

#### Definition

(3) In subsections (4) and (5), "proprietor" means the person who ultimately controls, governs or directs the activity carried on within a place and includes the person actually in charge of the premises at any particular time. (*gestionnaire*)

#### Proprietor obligations

- (4) Every proprietor of a place referred to in subsection (1) shall
- (a) ensure compliance with this section;
  - (b) give notice to each person in the place that consuming cannabis is prohibited in the place; and
  - (c) post signs prohibiting cannabis consumption in a form, manner and location that is prescribed by regulation, in conspicuous locations at every entrance, if any, to the place indicating that consuming cannabis is prohibited in the place.

#### Proprietor may remove person from place

(5) A proprietor may use reasonable means in the circumstance to remove a person from of a place referred to in subsection (1) if the person refuses to stop consuming cannabis in the place.

#### Exception – temporary licence

- (6) Subject to the regulations,
- (a) **Deleted: 5<sup>th</sup> Legislative Assembly, June 13, 2018.**
  - (b) paragraphs (1)(f) to (l) and subsections (4) and (5) do not apply with respect to a place for which a temporary licence which authorizes consumption of cannabis is in effect.

#### Exception – hotel rooms

(7) This section does not apply to a room in a hotel, motel or other place where rooms are rented for sleeping accommodation, provided the room is used for sleeping accommodation only.

#### Smoker's responsibility

**36.** (1) A person shall not smoke any substance in a manner or place, including in the dwelling of the person, that results in, or could reasonably be expected to result in, smoke or vapour entering and being detectable by smell or sight in

- (a) a workplace or public place as defined in the *Tobacco Control and Smoke-Free Places Act*;
- (b) the common area of an apartment building or condominium; or
- (c) a dwelling, other than
  - (i) the dwelling of the person, or
  - (ii) the dwelling of another person who consents.

#### Application to medical cannabis

(2) Subsection (1) applies to smoking cannabis obtained for medical purposes under the authority of applicable federal law.

#### Exception – outdoor smoking outside prescribed distance

(3) With respect to smoking that occurs outdoors, subsection (1) applies only if the smoking takes place within the distance prescribed by regulation from where the smoke or vapour enters or could reasonably be expected to enter a place referred to in that subsection.

Nature of consent

- (4) Consent under subparagraph (1)(c)(ii)
- (a) may not be given by contract; and
  - (b) may be revoked at any time.

INSPECTIONS, SEARCHES AND SEIZURES

Inspectors

Appointment

**37.** (1) The Minister may appoint persons or classes of persons as inspectors for the purposes of this Act.

Inspectors limited

(2) Subject to subsection (4), inspectors may only exercise the powers under sections 38 to 49 with respect to any or all of the following:

- (a) licenced establishments;
- (b) cannabis stores and remote sales stores operated by Agents;
- (c) any place where the inspector has reason to believe that cannabis, records or data belonging to an Agent, a former Agent, a licensee, or a former licensee are held or stored;
- (d) investigating contraventions of the provisions of this Act and the regulations referred to in section 51, including in places not referred to in paragraphs (a) to (c);
- (e) seizures of illicit or forfeitable cannabis, including in places not referred to in paragraphs (a) to (c).

Powers of peace officers

(3) Subject to this Act, inspectors have all the powers of peace officers when exercising their functions under this Act.

Restricted appointments

(4) The Minister may, in an appointment, restrict the powers of an inspector or a class of inspectors to only some of the matters referred to in paragraphs (2)(a) to (e) and subsections (3) and 54(2).

Inspections

Right to enter and inspect

**38.** (1) Subject to subsection (3), for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract, an inspector may, at any reasonable time, enter and inspect the following places, without a warrant:

- (a) licenced establishments;
- (b) cannabis stores and remote sales stores operated by Agents;
- (c) any place where the inspector has reason to believe that cannabis, records or data belonging to an Agent, a former Agent, a licensee, or a former licensee are held or stored.

Show identification

(2) The inspector shall, on request, show their official identification to the occupant or person in charge of the place the inspector is entering and inspecting under this Act.

### Dwelling

- (3) Despite subsection (1), the inspector shall not enter or inspect a dwelling unless
- (a) the occupant or person in charge of the dwelling consents; or
  - (b) the inspection is authorized by a warrant.

### Inspection powers

- (4) During an inspection of a place referred to in subsection (1), the inspector may, for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract,
- (a) open or cause to be opened any container whose contents may be relevant for the purpose of ensuring compliance;
  - (b) inspect any thing;
  - (c) take samples of any substance, thing, liquid, or gas;
  - (d) make audio, photo or video recordings of the place or any thing;
  - (e) require any person to produce any record or data for inspection in whole or in part; and
  - (f) seize any thing in accordance with section 41 that may provide evidence for the purpose of ensuring compliance.

### Suspension of licence

- (5) If an inspector has reasonable grounds to believe that a licence must be suspended in order to ensure compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract, the inspector
- (a) may, by providing notice to the licensee or their employee, suspend the licence until no later than the end of following day on which Government of Nunavut offices are regularly open; and
  - (b) shall inform the Superintendent of the suspension as soon as practicable.

### Assistance

- (6) The owner or the person in charge of a thing or place being inspected under this Act, and every person found in the place, shall
- (a) give the inspector all reasonable assistance to enable them to carry out their functions; and
  - (b) provide the inspector with any information in relation to the administration of this Act that they may reasonably require.

### Delegation

- (7) An inspector may, on consent, delegate a specific and time limited inspection power to a peace officer if they believe that
- (a) the inspection must be performed without delay; and
  - (b) they are unable to perform the inspection due to their illness, absence or other inability.

## Searches

### Searches of places and things

**39.** If an inspector or peace officer believes, on reasonable grounds, that an offence under this Act has been committed, they may enter any place and search any thing or place for the purpose of obtaining evidence in relation to that offence under this Act if

- (a) the owner or person in possession of the thing or the occupant or person in charge of the place, as the case may be, consents;

- (b) the search is authorized by a warrant; or
- (c) with respect to a place that is not a dwelling, the inspector or peace officer has reasonable grounds to believe that distance, urgency, the likelihood of the removal or destruction of the evidence and other relevant factors do not reasonably permit the obtaining of a warrant or consent.

#### Additional powers

#### Operation of equipment

- 40.** (1) In carrying out an inspection or search under this Act, an inspector or peace officer may
- (a) use or cause to be used any computer system and examine any data contained in or available to the computer system; and
  - (b) in accordance with section 41,
    - (i) reproduce or cause to be reproduced any record or data,
    - (ii) print or export any record or data for examination or copying, and
    - (iii) use or cause to be used any copying equipment at the place to make copies of the record or data.

#### Obstruction

- (2) While an inspector or peace officer is exercising powers or carrying out duties or functions under this Act, no person shall
- (a) knowingly make any false or misleading statement, either orally or in writing, to the inspector or peace officer; or
  - (b) otherwise obstruct or hinder the inspector or peace officer, other than by refusing entry to a place if the inspector or peace officer requires a warrant to enter the place.

#### Stopping a vehicle or other conveyance

(3) For the purpose of carrying out a search or inspection, an inspector or peace officer may stop a vehicle or other conveyance and direct that it be moved to a convenient place for the search or inspection.

#### Compliance

(4) When directed by an inspector or peace officer under this section, a person shall stop or move the vehicle or other conveyance as directed.

#### Warrant

(5) For greater certainty, nothing in this section allows for an entry, search or seizure without a warrant where a warrant is otherwise required by this Act.

#### Seizures

#### Seizures during inspections

- 41.** (1) If, during the course of an inspection, an inspector has reasonable grounds to believe that a thing may provide evidence for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract, the inspector may seize, detain and carry away the thing if
- (a) the seizure is authorized by a warrant; or
  - (b) distance, urgency, the likelihood of the removal or destruction of the thing as evidence or other relevant factors do not reasonably permit obtaining a warrant.

#### Seizures during searches

(2) If, during the course of a search, an inspector or peace officer has reasonable grounds to believe that a thing is evidence in relation to an offence under this Act, the inspector or peace officer may seize, detain and carry away the thing if

- (a) the seizure is authorized by a warrant; or
- (b) distance, urgency, the likelihood of the removal or destruction of the thing as evidence or other relevant factors do not reasonably permit obtaining a warrant.

#### Seizure of illicit and forfeitable cannabis

(3) An inspector or peace officer may seize any thing that they have reasonable grounds to believe is illicit or forfeitable cannabis or a container holding illicit or forfeitable cannabis

- (a) under the authority of a warrant; or
- (b) without a warrant, if the thing is found
  - (i) during an inspection or search under this Act,
  - (ii) during any other lawful search, or
  - (iii) in plain sight in the course of their duties, whether under this Act or otherwise.

#### Entry into dwellings

(4) For greater certainty, an inspector or peace officer may not enter a dwelling to effect a seizure unless

- (a) the occupant or person in charge of the dwelling consents; or
- (b) the entry is authorized by a warrant.

#### Disposition of things seized

#### Receipt for things seized

**42.** (1) If an inspector or peace officer seizes a thing under this Act, other than a sample taken pursuant to paragraph 38(4)(c), they shall issue a receipt to the person from whom it was seized which

- (a) describes the thing seized; and
- (b) in the case of a thing seized under subsection 41(3),
  - (i) declares that the thing is forfeit to the Government of Nunavut, and
  - (ii) indicates that an application for the return of the thing may be made under section 44.

#### Examination of thing seized

(2) An inspector or peace officer may have a thing seized under this Act, including a sample taken pursuant to paragraph 38(4)(c), examined or analysed.

#### Destruction or disposal

(3) A thing seized under this Act, other than under subsection 41(3), may be destroyed or otherwise disposed of safely under the direction of an inspector or peace officer without making an application for disposition under section 43, if they have reasonable grounds to believe that there is nothing of value to be returned.

#### Right to reclaim thing seized

(4) If a thing seized under this Act is no longer needed as evidence, is not illicit cannabis, was not forfeitable cannabis when it was seized, and has not been destroyed or otherwise disposed of in accordance with subsection (3) or as a result of being examined,

- (a) the inspector or peace officer must notify the owner or other person from whom it was seized in accordance with the regulations; and

- (b) the owner or the person from whom it was seized may reclaim it.

#### Unclaimed things

(5) If the owner or the person from whom the thing was seized under this Act does not reclaim it within seven days after being notified under subsection (4), the inspector or peace officer who seized it may destroy or otherwise dispose of it.

#### Custody and disposition of things seized

(6) Subject to subsections (2) to (5), an inspector or peace officer shall ensure that proper custody of a thing seized under this Act is maintained pending disposition under section 43 or 44.

#### Application for disposition

- 43.** (1) An inspector or peace officer shall, as soon as practicable, bring the seizure of a thing under this Act before a justice or judge, unless
- (a) the thing was destroyed, disposed of, reclaimed or unclaimed under section 42; or
  - (b) the thing was seized under subsection 41(3).

#### Affidavit

- (2) The inspector or peace officer shall provide the justice or judge with an affidavit stating
- (a) their grounds for believing that the thing seized
    - (i) may provide evidence for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract, or
    - (ii) may provide evidence of an offence under this Act;
  - (b) the name of the person, if any, having physical possession of the thing at the time it was seized; and
  - (c) where the thing is and how it was dealt with.

#### Disposition

- (3) A justice or judge may make the following orders in respect of a thing seized under this Act:
- (a) order the thing delivered to the owner or person entitled to it;
  - (b) order the thing to be held as evidence in a proceeding relating to the thing;
  - (c) order the thing to be destroyed or otherwise disposed of safely under the direction of an inspector or peace officer;
  - (d) order that the thing be forfeited to the Government of Nunavut;
  - (e) order the Government of Nunavut to provide fair compensation to the owner of the thing or the person entitled to it.

#### Return of thing seized as illicit or forfeitable cannabis

**44.** (1) If a thing is seized under subsection 41(3), the person from whom it was seized or another person claiming ownership of the thing may apply to a justice or judge for the return of the thing within 30 days after being provided a receipt for the thing under subsection 42(1).

#### Disposition

- (2) Following the hearing of an application under subsection (1),
- (a) if the justice or judge is satisfied that the thing is not illicit cannabis and either of the two conditions under subsection (3) are met, the justice or judge
    - (i) shall provide the inspector or peace officer an opportunity to provide an affidavit in accordance with subsection 43(2) with respect to the thing, and
    - (ii) may make any order under subsection 43(3) with respect to the thing; or
  - (b) in any other case, the justice or justice shall confirm the forfeiture of the thing.

### Conditions

- (3) Either of the following two conditions must be met for paragraph (2)(a) to apply:
- (a) the thing was not forfeitable cannabis when it was seized;
  - (b) the thing was forfeitable cannabis when it was seized, but
    - (i) the cannabis is owned by a licensee or the Commission,
    - (ii) the cannabis is contained in a sealed, tamper-proof container that has been sealed by a lawful commercial manufacturer, distributor or seller of cannabis,
    - (iii) the owner or an Agent stored the cannabis in accordance with the regulations, and
    - (iv) the owner or an Agent took all reasonable measures to prevent the cannabis from becoming forfeitable cannabis.

### Destruction of illicit or forfeitable cannabis

(4) Subject to subsection (5), if no application is made under subsection (1) with respect to a thing seized under subsection 41(3), or a justice or judge confirms the forfeiture of the thing under paragraph (2)(b), the inspector or peace officer shall destroy or otherwise safely dispose of the thing or direct its destruction or safe disposal.

### Evidence

(5) If a thing seized under subsection 41(3) is needed as evidence in a proceeding related to the thing, the inspector or peace officer shall not destroy or otherwise dispose of the thing, or direct its destruction or safe disposal, until it is no longer needed as evidence.

### Limitation on powers

#### Information, records or data

**45.** The powers under sections 38 to 41 and subsection 42(2) may not be used with respect to information, records or data except to the extent that doing so is

- (a) necessary for the purposes of an inspection, search or seizure; or
- (b) authorized by a warrant.

### Warrants

#### Inspection warrant

**46.** (1) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (2), if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found or obtained there evidence that is required for the purpose of ensuring compliance with any provision of this Act or the regulations, the conditions of a licence or the terms of a contract; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or the evidence may be lost if an attempt at obtaining consent is made.

#### Powers under inspection warrant

(2) A warrant issued under subsection (1) may authorize the person named in the warrant to do any or all of the following:

- (a) inspect the place;
- (b) seize any evidence referred to in paragraph (1)(a);
- (c) perform or cause to be performed any relevant test;

- (d) require that any machinery, equipment or device be operated, used, stopped or set in motion;
- (e) question a person on any relevant matter;
- (f) demand the production of any document or other thing;
- (g) require any person present in the place to give all reasonable assistance to the person named in the warrant to enable them to exercise powers and perform duties under this Act.

#### Search warrant

(3) A justice or judge may issue a warrant authorizing a person named in the warrant to enter in or on a place and exercise any of the powers referred to in subsection (4), if the justice or judge is satisfied by information on oath or affirmation that there are reasonable grounds to believe that

- (a) there is likely to be found or obtained there evidence of an offence under this Act; and
- (b) the occupant or person in charge of the place or thing does not or will not consent or that the evidence may be lost if an attempt at obtaining consent is made.

#### Powers under search warrant

(4) A warrant issued under subsection (3) may authorize the person or persons named in the warrant to do any or all of the following:

- (a) search the place;
- (b) seize any evidence referred to paragraph in (3)(a);
- (c) perform or cause to be performed any relevant test;
- (d) require that any machinery, equipment or device be stopped;
- (e) demand the production of any document or other thing;
- (f) require that a person named or specified in the warrant provide assistance specified in the warrant and required to give effect to the warrant.

#### Application without notice

(5) A warrant under this section may be issued, with conditions, on an application made without notice and in the absence of the owner or occupier of the place.

#### Time of execution

**47.** (1) A warrant must be executed at a reasonable time, or as specified in the warrant.

#### Expiration and extension

(2) A warrant must state the date on which it expires, and a justice or judge may extend the date on which the warrant expires for such additional periods as the justice or judge considers necessary.

#### Use of force

(3) A person named in a warrant may use such force as is reasonable and necessary to make the entry and exercise any power specified in the warrant.

#### Call for assistance

(4) A person named in a warrant may call on any other person they consider necessary to execute the warrant.

#### Providing assistance

(5) A person called upon under subsection (4) may provide a person named in the warrant any assistance that is necessary to execute the warrant.

### Identification

(6) On the request of an owner or occupant of the place, a person executing a warrant shall identify themselves, provide a copy of the warrant and explain the purpose of the warrant.

### Assistance of by-law officers

#### Request for assistance

**48.** (1) An inspector or peace officer may request the assistance of a by-law officer appointed under the *Hamlets Act* or the *Cities, Towns and Villages Act* in enforcing this Act or the regulations, the conditions of a licence or the terms of a contract and give them instructions for that purpose.

#### Powers and protections

(2) The powers and protections of a person requesting assistance under subsection (1) apply to and may be exercised by the by-law officers while acting under the instructions of the person requesting assistance.

### Oaths and affirmations

#### Power to administer oaths and affirmations

**49.** An inspector or peace officer may administer an oath or affirmation as if they were a commissioner for oaths to a person making a written declaration or affidavit in respect of any matter relating to the administration of this Act.

### Liability

#### Protection from liability

**50.** An inspector, peace officer or person giving assistance under this Act is not liable for any loss or damage suffered by reason of anything done or not done by them in good faith in the exercise of their powers, in the performance of their functions or duties or in giving assistance under this Act.

## OFFENCES AND PUNISHMENT

#### Finable offences

**51.** A person who contravenes any of the following provisions of this Act or regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$200 and not exceeding \$2,000:

- (a) sections 28 to 31;
- (b) sections 35 and 36;
- (c) a prescribed provision of the regulations.

#### General offences

**52.** (1) A person who contravenes any of the following provisions of this Act or regulations is guilty of an offence and liable on summary conviction to the penalty specified in subsection (2):

- (a) subsection 5(6);
- (b) subsection 15(7);
- (c) subsection 16(8);
- (d) subsection 18(2);
- (e) sections 22 to 27;
- (f) section 33;
- (g) subsection 38(6);
- (h) subsections 40(2) and (4);
- (i) a prescribed provision of the regulations.

Penalty – general offences

(2) A person who is guilty of an offence specified in subsection (1) is liable on summary conviction

- (a) for a first offence,
  - (i) in the case of a corporation, to a fine of not less than \$1,000 and not exceeding \$50,000, or
  - (ii) in the case of an individual, to a fine of not less than \$500 and not exceeding \$25,000, to imprisonment for a term of six months, or to both a fine and imprisonment; or
- (b) for each subsequent offence,
  - (i) in the case of a corporation, to a fine of not less than \$2,500 and not exceeding \$100,000, or
  - (ii) in the case of an individual, to a fine of not less than \$1,000 and not exceeding \$50,000, to imprisonment for a term of six months, or to both a fine and imprisonment.

Prior conviction

(3) For the purposes of this section, a conviction for a contravention of any provision specified in subsection (1) or subsection 53(1) is deemed, for greater certainty, to be a conviction for a prior offence.

Serious offences

**53.** (1) A person who contravenes section 32 of this Act or a prescribed provision of the regulations is guilty of an offence and liable on summary conviction

- (a) for a first offence,
  - (i) in the case of a corporation, to a fine of not less than \$2,500 and not exceeding \$100,000, or
  - (ii) in the case of an individual, to a fine of not less than \$1,000 and not exceeding \$50,000, to imprisonment for a term of one year, or to both a fine and imprisonment; or
- (b) for each subsequent offence,
  - (i) in the case of a corporation, to a fine of not less than \$5,000 and not exceeding \$200,000, or
  - (ii) in the case of an individual, to a fine of not less than \$2,500 and not exceeding \$100,000, to imprisonment for a term of two years, or to both a fine and imprisonment.

Prior conviction

(2) For the purposes of this section, a conviction for a contravention of any provision specified in subsection (1) is deemed, for greater certainty, to be a conviction for a prior offence.

Arrests – peace officers

**54.** (1) A peace officer may arrest, without a warrant, a person whom the peace officer finds contravening a provision specified in subsections 52(1) or 53(1).

Arrests – inspectors

(2) An inspector or peace officer may arrest, without a warrant, a person whom the inspector or peace officer finds contravening a provision specified in section 51 if the inspector or peace officer has reasonable grounds to believe that the arrest is required for any of the following purposes:

- (a) establishing the identity of the person;
- (b) securing or preserving evidence of or relating to the contravention;

- (c) preventing the continuation or repetition of the contravention or the commission of another contravention.

#### Continuing offence

**55.** (1) A person who continues an offence under this Act on more than one day is liable to be convicted for a separate offence for each day on which the offence is continued.

#### Repeated offence

(2) A person who commits an offence more than once, whether on the same day or on separate days, is liable to be convicted for a separate offence for each occurrence of the offence.

#### Liability of corporate officers

**56.** If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence is guilty of the offence and is liable to the punishment provided for the offence as an individual, whether or not the corporation has been prosecuted.

#### Employees or agents

**57.** In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by any employee or agent of the accused person, even if the employee or agent is not identified or is not prosecuted for the offence.

#### Additional fine

**58.** If a person is convicted of an offence under this Act and the justice or judge is satisfied that monetary benefits accrued or could have accrued to the person as a result of the commission of the offence,

- (a) the justice or judge may order the person to pay an additional fine in an amount equal to the amount of the monetary benefits;
- (b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act; and
- (c) the additional fine is to be added to any other fine or amount of money ordered to be paid under this Act.

#### Seized cannabis

**59.** If cannabis belonging to an accused person has been seized in relation to an offence under this Act and is not otherwise subject to forfeiture under this Act,

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

### MISCELLANEOUS PROVISIONS

#### Definition

**60.** (1) In this section, "medical emergency" means a situation in which there are reasonable grounds to believe that a person requires emergency medical assistance.

#### Exemption for medical emergency

(2) Despite any other provision of this Act, if a person seeks emergency medical or law enforcement assistance because that person or another person is experiencing a medical emergency

- (a) the person shall not be charged with or convicted of an offence against the following provisions, if the evidence in support of that offence was obtained or discovered as a result of that person having sought assistance or having remained at the scene:
  - (i) sections 22 to 24,
  - (ii) sections 26 to 31,
  - (iii) sections 35 and 36,
  - (iv) a prescribed provision of the regulations; and
- (b) any cannabis in the possession of the person shall not be seized, if the cannabis was discovered as a result of that person having sought assistance or having remained at the scene.

#### Other persons at the scene

(3) The exemptions under subsection (2) also apply to any person who is at the scene on the arrival of the emergency medical or law enforcement assistance, including the person experiencing or subject to the medical emergency.

#### Definition

**61.** (1) In this section, "analyst" means an analyst licensed or otherwise certified by the Government of Canada, or by another authority prescribed by regulation, to provide analysis in relation to the presence of cannabis, or a compound found only in cannabis, in a substance.

#### Certificate of analyst

(2) In proceedings under this Act, a certificate is, in the absence of evidence to the contrary, proof of the facts stated in it without proof of the signature or the official character of the person by whom it purports to be signed, if the certificate

- (a) purports to be signed by an analyst;
- (b) states that the analyst has performed a chemical analysis on a substance;
- (c) states the result of the analysis; and
- (d) is produced in the proceedings.

#### Exception

(3) Subsection (2) does not apply in proceedings under sections 51 to 53 unless

- (a) at least seven days' notice in writing is given to the accused person of the intention to produce the certificate of an analyst in evidence; or
- (b) the accused person, or their agent or legal counsel, has consented to the production in evidence of the certificate of an analyst without that notice.

#### Definition

**62.** (1) In this section, "personal information" has the same meaning as in,

- (a) if applicable, the *Access to Information and Protection of Privacy Act*; or
- (b) otherwise, the *Personal Information Protection and Electronic Documents Act* (Canada).

#### Requests for personal information

(2) A peace officer may request the Commission, an Agent or a licensee to provide personal information in their custody or control, if the peace officer has reasonable grounds to believe the personal information is required for the purpose of

- (a) enforcing this Act or the regulations;
- (b) carrying out of an investigation relating to the enforcement of this Act or the regulations; or
- (c) gathering intelligence for the purpose of enforcing this Act or the regulations.

### Information-sharing agreements

**63.** (1) The Minister may enter into agreements for the collection, use, disclosure and exchange of information, including personal information, with the following:

- (a) the Government of Canada or any of its departments, Ministers or agencies;
- (b) the government of a province or territory or any of its departments, Ministers or agencies;
- (c) a public agency as defined in the *Financial Administration Act*;
- (d) a law enforcement agency;
- (e) an Agent;
- (f) a licensee;
- (g) a prescribed body.

### Required agreement

(2) The Minister may require a licensee, as a condition of the licence, to enter into an agreement for the collection, use, disclosure and exchange of information in the form referred to in subsection (5).

### Limit

- (3) An agreement may only be entered into under subsection (1) or (2) for the purposes of
- (a) administering, enforcing or evaluating this Act, the federal Act or a comparable law of a province or another territory;
  - (b) administering a taxation agreement respecting cannabis;
  - (c) developing and evaluating fiscal and tax policies respecting cannabis; and
  - (d) developing and evaluating health policies respecting cannabis.

### Content of agreement

- (4) An agreement entered into under subsection (1) or (2) shall
- (a) specify only those purposes under subsection (3) which are necessary for the purposes of the agreement;
  - (b) provide that information collected, used, disclosed or exchanged under the agreement may not be further used or disclosed for any purpose other than one specified in the agreement, unless applicable legislation requires such use or disclosure;
  - (c) provide that information collected, used, disclosed or exchanged for the purpose of evaluating a law or for the purposes referred to in paragraphs (3)(c) and (d) must be in the form referred to in subsection (5);
  - (d) where the *Archives Act* or an enactment of another Canadian jurisdiction does not provide for the retention and destruction of information collected, used, disclosed or exchanged under the agreement, provide for retention and destruction schedules for the information;
  - (e) provide that personal information collected, used, disclosed or exchanged under the agreement is confidential; and
  - (f) establish mechanisms for maintaining the confidentiality and security of information collected, used, disclosed or exchanged under the agreement.

### Limit with respect to evaluations

- (5) Where information is shared under paragraph (4)(c), the information must be in the form of
- (a) aggregate information that relates only to groups of individuals in the form of statistical information or aggregated, general or anonymous data; or
  - (b) anonymous information that relates to an unidentifiable individual.

Using information within government

(6) Any personal information collected in the administration or enforcement of this Act and the regulations, or obtained through an agreement entered into under this Act, may be disclosed and used within the Government of Nunavut in the form referred to in subsection (5) for the purposes of

- (a) evaluating this Act or any other enactment relating to cannabis;
- (b) developing and evaluating fiscal and tax policies respecting cannabis; and
- (c) developing and evaluating health policies respecting cannabis.

Review every five years

**64.** (1) The Minister shall, every fifth year following Assent, review

- (a) the administration and implementation of this Act; and
- (b) the effectiveness of the provisions of this Act, particularly with respect to achieving the purposes of this Act.

Report on review

(2) As part of a review under subsection (1), the Minister shall prepare a report on the review, including, where applicable, recommendations for

- (a) changes to the administration and implementation of this Act; and
- (b) amendments to this Act.

Report to be tabled

(3) The Minister shall table the report prepared under subsection (2) in the Legislative Assembly during the first sitting of the Assembly after the report is prepared that provides a reasonable opportunity for tabling the report.

## REGULATIONS

Regulations

**65.** (1) The Commissioner, on the recommendation of the Minister, may make regulations for carrying the purposes and provisions of this Act into effect, including regulations

- (a) respecting the sale, provision, possession or consumption of cannabis for research or educational purposes;
- (b) respecting the operation of cannabis stores and remote sales stores by the Commission or an Agent, including terms which must be included in a contract under subsections 5(8) and (9);
- (c) creating subclasses of licences;
- (d) respecting the application for and issuance of licences, including
  - (i) prescribing conditions which applicants must meet in order to be issued a licence,
  - (ii) respecting terms which must be included in a contract under subsection 8(8),
  - (iii) respecting conditions that may be included in licences, and
  - (iv) prescribing conditions that must be included in licences;
- (e) respecting the relinquishment of licences;
- (f) respecting licence fees, including
  - (i) application fees, and
  - (ii) recurring fees that are to be paid as a condition of a licence;
- (g) respecting the operation of licenced establishments;
- (h) limiting the hours during which cannabis may be sold;
- (i) limiting the quantities of cannabis that may be sold to a person;

- (j) respecting the packaging and labelling of cannabis sold by the Commission, Agents and licensees;
- (k) prescribing minimum and maximum prices for cannabis sold by the Commission, Agents and licensees;
- (l) respecting the maximum potency of cannabis sold by the Commission, Agents and licensees;
- (m) respecting the security of premises where cannabis is sold or stored for the purposes of sale;
- (n) respecting the security of the remote sales platforms used by remote sales stores;
- (o) respecting records which must be maintained by the Commission, Agents, former Agents, licensees and former licensees and their successors;
- (p) respecting appeals to the Board under sections 13 and 16;
- (q) respecting administrative penalties imposed under paragraph 15(1)(b);
- (r) respecting the manner in which cannabis is destroyed by a licensee, former licensee or successor;
- (s) respecting the manner in which forfeited cannabis is destroyed;
- (t) establishing possession limits for cannabis;
- (u) providing for the methods by which cannabis must be stored;
- (u.1) regulating cannabis plants, including
  - (i) their cultivation, and
  - (ii) circumstances in which their cultivation is prohibited;
- (v) restricting the gifting or sharing of cannabis, including by prohibiting the gifting by or to, or sharing by, a class of persons;
- (w) respecting the transportation of cannabis, except in a vehicle on a highway as defined in the *Motor Vehicles Act*;
- (x) respecting the storage and consumption of cannabis in or on a conveyance, other than a vehicle on a highway as defined in the *Motor Vehicles Act*;
- (y) respecting proofs of age for the purposes of section 33;
- (z) providing for the methods by which age and identity must be verified prior to a person gaining access to making purchases from a remote sales store;
- (aa) exempting an activity that is incidental to the operations of the Commission, Agents or licensees under this Act from the operation of sections 22 to 24, 28 and 29;
- (ab) prescribing the distance from the places referred in section 35 within which the consumption of cannabis is prohibited;
- (ac) prescribing or otherwise describing public places where the consumption of cannabis is prohibited;
- (ad) respecting the form, manner and location of signs prohibiting cannabis consumption;
- (ae) prescribing a distance for the purposes of section 36;
- (af) respecting the powers and duties of inspectors;
- (ag) respecting notifications under paragraph 42(4)(a);
- (ah) respecting the service of notices under this Act;
- (ai) prescribing provisions of the regulations for the purposes of sections 51, 52, 53 and 60;
- (aj) prescribing authorities for the purposes of subsection 61(1);
- (ak) respecting forms to be used for the purposes of this Act;
- (al) prescribing anything that this Act allows or requires to be prescribed;
- (am) respecting any other matter or thing necessary or advisable for carrying out the purposes and provisions of this Act; and
- (an) for any purpose for which regulations are authorized to be made.

Licence fees

- (2) Licence fees may be established in the regulations
- (a) as a flat fee or based on volume or value of sales; and
  - (b) in consideration of the full or partial cost to the Government of Nunavut of any or all of the following:
    - (i) operating and enforcing the licensing regime,
    - (ii) otherwise enforcing this Act and the regulations,
    - (iii) education campaigns promoting the socially responsible use of cannabis,
    - (iv) providing any health, public safety and social services related to cannabis.

Administrative penalties

- (3) Administrative penalties under the regulations may
- (a) not exceed \$10,000 per contravention;
  - (b) be different for different contraventions;
  - (c) be different in the case of repeat contraventions; and
  - (d) be daily in the case of continuing contraventions.

Power to differentiate

- (4) Regulations made under this Act may
- (a) be general or particular in application;
  - (b) be different for different classes or subclasses; and
  - (c) establish classes for the purposes of paragraph (b).

Exception

(5) Regulations made under paragraphs (1)(h) to (o), (u), (z), and (aa) must not differentiate between the Commission, an Agent and a licensee.

*Statutory Instruments Act*

**66.** The *Statutory Instruments Act* does not apply to licences, contracts or forms under this Act.

**Related amendments**

*Condominium Act*

**67.** The following is added after subsection 17(1) of the *Condominium Act*:

Smoking

(1.1) A by-law made under paragraphs (1)(b) and (c) may include a restriction or prohibition on smoking as defined in the *Tobacco Control and Smoke-Free Places Act*.

*Motor Vehicles Act*

**68.** (1) This section amends the *Motor Vehicles Act*, R.S.N.W.T. 1988,c.M-16.

(2) Subsection 83.1(1) is amended by adding "of more than 24 hours" after "a driving suspension".

**(3) Subsection 83.1(6) is repealed and replaced by:**

Fees

(6) A person whose driver's licence is suspended for more than 24 hours under section 116.3 shall pay the prescribed fees before the Registrar may issue or reinstate the person's driver's licence.

**(4) Section 116 is repealed and replaced by:**

Definitions

116. In this section and sections 116.1 to 116.6,

"driver's licence" includes a driver's licence issued under the laws of a jurisdiction other than Nunavut; (*permis de conduire*)

"novice driver" includes a person who holds a driver's licence issued as part of a graduated licensing program under the laws of a jurisdiction other than Nunavut. (*conducteur débutant*)

Certain drivers – power to demand sample

116.1. (1) A peace officer who reasonably suspects that a driver who is a minor or a novice driver or is driving a commercial vehicle and who has the care or control of a vehicle on a highway has alcohol or another drug in their body may direct the driver

- (a) to stop and park the vehicle, if the vehicle is in operation;
- (b) to provide immediately, or as soon as is practicable,
  - (i) samples of breath that, in peace officer's opinion, will enable a proper analysis to be made by means of an approved instrument or approved screening device as defined in section 254 or 320.11 of the *Criminal Code* in order to determine whether alcohol is present in the driver's blood, or
  - (ii) samples of a bodily substance that, in the peace officer's opinion, are necessary to enable a proper analysis to be made by means of approved drug screening equipment as defined in section 254 or 320.11 of the *Criminal Code* in order to determine whether a drug other than alcohol is present in the driver's blood; and
- (c) to accompany the peace officer for the purpose of enabling the samples to be taken.

Requirement to comply

(2) A driver shall comply with a direction of a peace officer made under this section.

Demand to stop vehicle

116.2. (1) Where a peace officer on reasonable grounds believes that the ability of a driver to drive a motor vehicle on a highway is adversely affected because the driver has consumed or otherwise introduced alcohol or other drug into their body, or is fatigued, the peace officer may direct the person to stop and park the vehicle.

Requirement to comply

(2) A driver shall comply with a direction of a peace officer made under this section.

Suspension or disqualification

- 116.3. (1) In any of the circumstances described in paragraphs (2)(a) to (e), a peace officer shall
- (a) if the person is named in a valid driver's licence issued under this Act,
    - (i) direct the driver to surrender their driver's licence,
    - (ii) suspend the person's driver's licence for the period of suspension indicated in subsection (2), and
    - (iii) serve a notice of suspension on the person;
  - (b) if the person is named in a valid driver's licence issued under the laws of another jurisdiction,
    - (i) direct the driver to surrender their driver's licence,
    - (ii) disqualify the person from operating a motor vehicle and from applying for or holding a driver's licence under this Act for the period of disqualification indicated in subsection (2), and
    - (iii) serve a notice of disqualification on the person; or
  - (c) if the person is not named in a driver's licence issued under this Act or under the laws of another jurisdiction
    - (i) disqualify the person from operating a motor vehicle and from applying for or holding a driver's licence under this Act for the period of disqualification indicated in subsection (2), and
    - (ii) serve a notice of disqualification on the person.

Period of suspension or disqualification

(2) If a peace officer suspends a person's driver's licence, disqualifies a person from operating a motor vehicle or disqualifies a person from holding or applying for a driver's licence under subsection (1), the period of suspension or disqualification is the greater of

- (a) 24 hours, if the person is the driver of a motor vehicle on a highway and the peace officer has reasonable grounds to believe that their ability to drive is adversely affected because they
  - (i) have consumed or otherwise introduced alcohol or another drug into their body, or
  - (ii) are fatigued;
- (b) 24 hours, if the person has not been subject to a previous suspension, disqualification or prohibition in Nunavut and the results following a analysis referred to in subsection (3) indicate the person has
  - (i) at least 50 milligrams of alcohol in 100 millilitres of their blood,
  - (ii) at least the lower prescribed amount of another drug in their blood, or
  - (iii) at least the prescribed combined amounts of alcohol and another drug;
- (c) 30 days, if the person is a minor, a novice driver or driving a commercial vehicle and the results following an analysis referred to in subsection (3) indicate the person has in their blood
  - (i) any amount of alcohol, or
  - (ii) detectable amounts of another drug, as defined in the regulations;
- (d) 30 days, if the person has been subject to a previous suspension, disqualification or prohibition in Nunavut and the results following a analysis referred to in subsection (3) indicate the person has
  - (i) at least 50 milligrams of alcohol in 100 millilitres of their blood, or
  - (ii) at least the lower prescribed amount of another drug in their blood; or
- (e) 90 days, if the person has been subject to a previous suspension, disqualification or prohibition in Nunavut and the results following an analysis referred to in subsection (3) indicate the person has
  - (i) at least 80 milligrams of alcohol in 100 millilitres of their blood,

- (ii) at least the higher prescribed amount of another drug in their blood, or
- (iii) at least the prescribed combined amounts of alcohol and another drug.

Analysis is conclusive

(3) For the purposes of subsection (2), the amount of alcohol or other drug in a person's blood is conclusively determined by

- (a) in the case of a minor, a novice driver or a person driving a commercial vehicle, the results produced on analysis, by any means authorized under the *Criminal Code* or section 116.1, of the person's breath, blood or other bodily substance, following a demand made under section 254, 320.27 or 320.28 of the *Criminal Code* or a direction made under section 116.1; or
- (b) in any other case, the results produced on analysis, by any means authorized under the *Criminal Code*, of the person's breath, blood or other bodily substance following a demand made under section 254, 320.27 or 320.28 of the *Criminal Code*.

Requirement to comply

(4) A driver shall comply with the direction of a peace officer under this section.

No new authority to analyze

(5) For greater certainty, nothing in this section authorizes a peace officer to

- (a) analyze the breath, blood or bodily substances of any person other than under the authority of the *Criminal Code* or section 116.1; or
- (b) use the results of an analysis that was not made following a demand under section 254, 320.27 or 320.28 of the *Criminal Code* or a direction under section 116.1.

Return of licence

116.4. (1) At the termination of a driver's licence suspension under section 116.3, the driver's licence surrendered under that section shall be returned to the person named in the driver's licence by:

- (a) if the suspension is for 24 hours and the driver's licence has not been sent to the Registrar under section 116.5, the person retrieving it from the peace officer or the peace officer's place of employment; or
- (b) in any other case, subject to section 83.1, the Registrar returning the driver's licence to the person.

Exception

(2) A peace officer shall not return a driver's licence under paragraph (1)(a) while the peace officer has reasonable grounds to believe that the person's ability to drive is adversely affected because they

- (a) have consumed or otherwise introduced alcohol or another drug into their body; or
- (b) are fatigued.

Documents sent to Registrar

116.5. (1) A peace officer who imposes a suspension or disqualification under section 116.3 shall, within 24 hours of serving notice of suspension or disqualification on a person, send to the Registrar

- (a) a report of the circumstances leading to and including the suspension or disqualification;

- (b) a copy of any notice of suspension or disqualification that was served on the person;
- (c) a copy of any certificate referred to in section 258 or 320.32 of the *Criminal Code*; and
- (d) the driver's licence, if
  - (i) it was surrendered under section 116.3, and
  - (ii) the period of suspension or disqualification is 30 or 90 days.

24 - hour suspension

(2) A peace officer who imposes a suspension or disqualification for a period of 24 hours under section 116.3 shall, as soon as practicable, send to the Registrar any driver's licence surrendered by the driver if

- (a) the driver requests that it be sent to the Registrar; or
- (b) the driver has not retrieved the driver's licence under paragraph 116.4(1)(a) within 15 days after the end of the suspension.

Review

116.6. (1) A person may request a review of a suspension or disqualification imposed under section 116.3 by submitting a notice of request for review and paying the prescribed fee to the Registrar within 10 days after being served with a notice of suspension or disqualification.

Registrar may conduct reviews

(2) The Registrar may conduct reviews under this section.

Person not compellable

(3) A person who requests a review is not compelled to give evidence under this section.

Evidence considered

- (4) In a review under this section, the Registrar shall consider
- (a) any relevant affidavit and any other relevant information; and
  - (b) the documents sent to the Registrar under section 116.5.

Natural justice

(5) The Registrar is bound by the rules of natural justice in conducting a review under this section.

Suspension or disqualification confirmed, varied or vacated

- (6) The Registrar shall, after conducting a review under this section,
- (a) confirm a suspension or disqualification;
  - (b) vary a suspension or disqualification in order to correct an error; or
  - (c) vacate a suspension or disqualification.

Suspension or disqualification remains in effect

(7) A suspension or disqualification imposed under section 116.3 remains in effect despite the filing of a request for a review under this section.

**(5) The following is added after paragraph 349(h.1):**

- (h.2) respecting notices of suspension and disqualification referred to in subsection 116.3(1);
- (h.3) prescribing, including by reference to detectable amounts,

- (i) the lower amounts of drugs in the blood for the purposes of paragraphs 116.3(2)(b) and (d),
  - (ii) the higher amounts of drugs in the blood for the purposes of paragraph 116.3(2)(e), which may be the same amount as the lower amounts, and
  - (iii) the combined amounts of alcohol and other drugs in the blood for the purposes of paragraphs 116.3(2)(b) and (e);
- (h.4) defining detectable amounts for the purpose of subsection 116.3(2) and the regulations made under paragraph (h.3);

***Liquor Act***

**69. (1) This section amends the *Liquor Act*.**

**(2) Subsection 1(1) is amended**

- (a) in the definition of "Commission" by replacing "Liquor Commission" with "Liquor and Cannabis Commission"; and**
- (b) by adding the following definition in alphabetical order:**

"intoxicated condition" includes being intoxicated by alcohol, cannabis or another drug; (*état d'intoxication*)

**(3) The following provisions are amended by replacing "Liquor Licensing Board" with "Liquor and Cannabis Board":**

- (a) the definition of "Board" in subsection 1(1);**
- (b) subsection 3(1);**

**(4) The heading preceding section 3 is repealed and replaced by "LIQUOR AND CANNABIS BOARD".**

**(5) Section 4 is amended**

- (a) by adding "or cannabis" after each occurrence of "liquor" in subsections (1) and (2); and**
- (b) by adding ", licensee" after "agent" in paragraph (1)(a).**

**(6) Subsection 6(1) is amended by adding "or the *Cannabis Act*" after each occurrence of "this Act".**

**(7) Subsection 6(3) is amended by striking out "and" at the end of subparagraph (a)(ii), replacing the period at the end of subparagraph (b)(ii) with "; and" and adding the following after subparagraph (b)(ii):**

- (c) performing any functions assigned to the Board under the *Cannabis Act*.**

**(8) Subsection 36(4) is amended by deleting "or, where the Commission is not established, to the Minister who is assigned the responsibility for Part II".**

**(9) Subsection 38(1) is amended by deleting "or, where the Commission is not established, to the Minister who is assigned the responsibility for Part II".**

**(9.1) The English version of subsections 38(1) and (2) are amended by deleting "or the Minister, as the case may be".**

**(10) The following provisions are amended by deleting "or, where the Commission is not established, the Minister who is assigned the responsibility for Part II,":**

- (a) **subsection 38(2);**
- (b) **section 106;**
- (c) **subsection 108(3) and (4);**
- (d) **section 109.**

**(11) Section 52 is amended by**

- (a) **repealing subsection (1);**
- (b) **renumbering subsection (2) as section 52; and**
- (c) **replacing "an intoxicated person whose condition is such" with "a person who is in such an intoxicated condition".**

**(12) Subsections 56(2) and (3) are repealed and replaced by:**

Liquor and Cannabis Commission

- (2) The Liquor and Cannabis Commission is established.

Delegation of duties

(2.1) The Minister may delegate to the Commission any of the duties of the Minister under subsection (1).

Direction of Minister

(3) The Commission, in exercising its powers and performing its duties under this Act and the regulations, shall act under the direction of the Minister.

**(13) Subsection 56(5) is amended by replacing "this Act or the regulations" with "this Act, the regulations, the *Cannabis Act* or its regulations".**

**(14) The following provisions are amended by deleting "or, where the Commission is not established, the Minister,":**

- (a) **subsection 57(1);**
- (b) **subsection 58(3);**
- (c) **paragraph 63(5)(b).**

**(15) Subsection 58(3) is amended by replacing "from the administration of this Act and the regulations concerning the purchase and sale of liquor" with "from the administration of this Act, the regulations, the *Cannabis Act* and its regulations concerning the purchase and sale of liquor and cannabis".**

**(16) The following provisions are amended by replacing "Liquor Revolving Fund" with "Liquor and Cannabis Revolving Fund":**

- (a) **subsection 58(3);**
- (b) **section 59;**
- (c) **section 59.1;**
- (d) **paragraph 70(1)(q).**

**(17) The following provision are amended by adding "and cannabis" after each occurrence of "liquor":**

- (a) **section 59;**
- (b) **section 59.1;**
- (c) **paragraph 70(1)(q).**

**(18) Subsections 61(2) to (4) are repealed and replaced by:**

Tabling

(3) The Minister shall table a copy of the report referred to in subsection (1) before the Legislative Assembly at the first session of the Legislative Assembly after receipt of the report by the Minister.

Content of report

(4) The report referred to in subsection (1) shall include the financial statements of the Commission and the report of the auditor.

**(19) Subsection 61(8) is amended by deleting "**, where established, or in respect of the administration of this Part by the Minister,".

**(20) Subparagraphs 61(8)(c)(i) to (iii) and the portion of subsection 61(8) following paragraph (c) are repealed and replaced with:**

- (i) this Act, the regulations, the *Cannabis Act* and its regulations,
- (ii) the *Financial Administration Act* and the regulations made under it,
- (iii) any directives issued under the *Financial Administration Act* to the Commission, and
- (iv) any direction provided to the Commission under this Act or the *Cannabis Act*.

Auditor's responsibility

(9) As part of the report under subsection (8), the auditor shall call attention to any other matter within the scope of the examination of the auditor that, in the auditor's opinion, should be brought to the attention of the Legislative Assembly.

**(21) Subsection 63(6) is amended by deleting "or, where the Commission is not established, the Minister," and "or the Minister, as the case may be".**

**(22) The French version of subsections 80(1) and 81(1) are amended by replacing "état d'ébriété" by "état d'intoxication".**

**(23) Subsection 98(1) is amended by deleting "or who is apparently under the influence of drugs".**

**(24) Subsection 98(2) is amended by**

- (a) in paragraph (a) by deleting ", drunkenness," and the "or" at the end of the paragraph; and**
- (b) by adding the following after paragraph (a):**
  - (a.1) any person in an intoxicated condition; or

*Residential Tenancies Act*

**70. (1) This section amends the *Residential Tenancies Act*.**

**(2) The following is added after subsection 42(2):**

Smoke damage

(2.1) For greater certainty, damage caused by smoking as defined in the *Tobacco Control and Smoke-Free Places Act* does not constitute ordinary wear and tear.

**(3) The following is added after subsection 45(1):**

Smoking

(1.1) Unless a written tenancy agreement specifies otherwise, an obligation in a written tenancy agreement to not smoke or not permit smoking in the rental premises or in the residential complex

- (a) includes all smoking as defined in the *Tobacco Control and Smoke-Free Places Act*, even if the written tenancy agreement only mentions smoking tobacco; and
- (b) is deemed to be reasonable and binding for the purposes of this section.

**(4) The following is added after subsection 46(1):**

*Cannabis Act*

(1.1) A tenant shall not contravene or permit the contravention of the *Cannabis Act* or the *Tobacco Control and Smoke-Free Places Act* in the rental premises or in the residential complex.

**(5) Subsection 46(2) is amended by replacing "subsection (1)" with "this section".**

*Revolving Funds Act*

**71. (1) This section amends the *Revolving Funds Act*.**

**(2) The following provisions of the *Revolving Funds Act* are amended by replacing "Liquor Revolving Fund" with "Liquor and Cannabis Revolving Fund":**

- (a) subsection 2(1);**
- (b) section 6.**

**(3) Section 6 is amended by replacing "\$6,500,000" with "\$15,000,000".**

*Tobacco Control Act*

**72. (1) This section amends the *Tobacco Control Act*, S.Nu. 2003,c.13.**

**(2) The definition of "proprietor" in section 1 is amended by deleting "public".**

**(3) Subsection 13(1) is amended by replacing "in the three metre radius surrounding" with "within a prescribed distance from".**

**(4) Subsection 13(2) is amended**

- (a) by replacing "The three metre rule set out in subsection (1) does not apply to" with "Subsection (1) does not apply with respect to"; and**
- (b) by replacing "three metres to" with "the prescribed distance from".**

**(5) Subsection 14(1) is repealed and replaced by:**

Prohibition of smoking in certain places

**14. (1) No person shall smoke**

- (a) in the common area of an apartment building or condominium, or within the prescribed distance from any outside entrance to or exit from the common area;**
- (b) in a public place, or within the prescribed distance from any entrance to or exit from a public place;**

- (c) in a place, including a dwelling, where child day care services are provided for money or other consideration, or within the prescribed distance from any outside entrance to or exit from such a place, during the times at which the services are being provided; or
- (d) on, in or within the prescribed distance from,
  - (i) the grounds of
    - (A) a hospital and other health facility,
    - (B) a school, or
    - (C) a child day care facility, as defined in the *Child Day Care Act*,
  - (ii) a playground,
  - (iii) a sports or playing field,
  - (iv) a parade, concert or other public event, or
  - (v) any other prescribed place to which the public has access as of right or by invitation, express or implied.

**(6) Subsection 14(2) is amended by**

- (a) **replacing** "The three metre rule set out in subsection (1) does not apply to" **with** "Paragraph (1)(b) does not apply with respect to";
- (b) **replacing** "three metres to" **with** "the prescribed distance from"; **and**
- (c) **deleting** "public".

**(7) Subsection 14(4) is amended by**

- (a) **replacing the first instance of** "public place" **with** "place referred to in subsection (1)"; **and**
- (b) **replacing each other instance of** "public place" **with** "place".

**(8) Subsection 14(6) is amended**

- (a) **by replacing the first instance of** "the public place" **with** "a place referred to in subsection (1)"; **and**
- (b) **in the English version by replacing each other instance of** "the public place" **with** "the place".

**(9) Subsection 22(1) is amended by deleting "and" at the end of paragraph (b) and adding the following after paragraph (b):**

- (b.1) respecting the circumstances in which persons smoking cannabis obtained for medical purposes under the authority of applicable federal law are exempt from a provision of this Act or the regulations; and

**Consequential amendments**

***Financial Administration Act***

**73. Schedule A to the *Financial Administration Act* is amended**

- (a) **in item 7 by replacing** "Liquor Licensing Board" **with** "Liquor and Cannabis Board"; **and**
- (b) **in item 8 by replacing** "Liquor Commission" **with** "Liquor and Cannabis Commission".

***Public Service Act***

**74. (1) Schedule A to the *Public Service Act* is amended**

- (a) **in paragraph (g) by replacing** "Liquor Commission" **with** "Liquor and Cannabis Commission"; **and**

(b) in paragraph (h) by replacing "Liquor Licensing Board" with "Liquor and Cannabis Board".

(2) Paragraph (h) of Schedule B to the *Public Service Act* is amended by replacing "Liquor Licensing Board" with "Liquor and Cannabis Board".

#### Coordinating provisions and amendments

75. If subsection 8(3) of the *Cannabis Statutes Amendment Act*, introduced as Bill 3 in the Second Session of the Fifth Legislative Assembly, has not come into force prior to the Assent of this Act,

- (a) if that Bill has received Assent or is still on the order paper of the Legislative Assembly,
  - (i) the term "smoke" in this Act is to be interpreted in accordance with the definitions found in subsection 8(3) of that Act or subclause 8(3) of that Bill despite it not being in force or not having received Assent,
  - (ii) the reference in paragraph 36(1)(a) of this Act and subsection 46(1.1) of the *Residential Tenancies Act* to the *Tobacco Control and Smoke-Free Places Act* shall be read as reference to the *Tobacco Control Act*, and
  - (iii) other references to the *Tobacco Control and Smoke-Free Places Act* in an Act amended by this Act shall be read as reference to this Act; and
- (b) if that Bill is removed from the order paper of the Legislative Assembly without receiving Assent,
  - (i) the definition of "smoke" in subsection 2(1) of this Act is replaced by insertion, in alphabetical order, of the definitions of "electronic cigarette", "smoke" and "water pipe" from subclause 8(3) of that Bill,
  - (ii) the following are amended by replacing "*Tobacco Control and Smoke-Free Places Act*" with "*Tobacco Control Act*":
    - (A) paragraph 36(1)(a) of this Act, and
    - (B) subsection 46(1.1) of the *Residential Tenancies Act*, and
  - (iii) every other instance of "*Tobacco Control and Smoke-Free Places Act*" in an Act amended by this Act is replaced with "*Cannabis Act*".

76. On the coming into force of section 2 of *An Act to Amend the Motor Vehicles Act*, S.Nu. 2017,c.20, or if that section has already come into force, on Assent, paragraphs 65(1)(w) and (x) of this Act are amended to replace "*Motor Vehicles Act*" with "*Traffic Safety Act*".

77. (1) If section 28 of *An Act to Amend the Motor Vehicles Act*, S.Nu. 2017,c.20 has not come into force prior to the coming into force of this section, it is repealed.

(2) If section 28 of *An Act to Amend the Motor Vehicles Act*, S.Nu. 2017,c.20 has come into force prior to the coming into force of this section, the repeal of section 116 of the *Motor Vehicles Act*, R.S.N.W.T. 1988,c.M-16 in subsection 68(4) of this Act includes a repeal of sections 116.1 to 116.5 of the *Motor Vehicles Act*, R.S.N.W.T. 1988,c.M-16 as they read immediately prior to the coming into force of that subsection.

**(3) Subsection 61(3) of *An Act to Amend the Motor Vehicles Act*, S.Nu. 2017,c.20 is repealed and, if it has come into force prior to the coming into force of this section, deemed to never have come into force.**

**Transitional**

**78. For greater certainty,**

- (a) the Liquor Licensing Board established under subsection 3(1) of the *Liquor Act* as it read prior to the coming into force of section 69 is continued as the Liquor and Cannabis Board; and**
- (b) the Liquor Commission established under subsection 56(2) of the *Liquor Act* as it read prior to the coming into force of section 69 is continued as the Liquor and Cannabis Commission.**

**79. Until subsection 3(13) of *An Act to Amend the Motor Vehicles Act*, S.Nu. 2017,c.20, comes into force, a reference to a "novice driver" in sections 116 to 116.5 of the *Motor Vehicles Act*, R.S.N.W.T. 1988,c.M-16 includes a reference to a driver with a Class 6 or 7 driver's licence as described in Schedule A to the *Driver's Licence Regulations* made under the *Motor Vehicles Act*, R.S.N.W.T. 1988,c.M-16.**

**Coming into force**

**80. (1) The following provisions of this Act come into force on the same day as section 8 of the *Cannabis Act* (Canada), introduced in the House of Commons as Bill C-45 on April 13, 2017, comes into force or, if that section is already in force, on Assent:**

- (a) sections 1 to 3;**
- (b) subsections 6(1) to (4);**
- (c) sections 22 to 64, except those provisions listed in paragraphs (2)(d) to (i);**
- (d) the portion of subsection 65(1) preceding paragraph (a);**
- (e) paragraphs 65(1)(a), (s), (v) to (x), (ab), (ac) and (af) to (an);**
- (f) subsections 65(4) and (5);**
- (g) section 66;**
- (h) section 69;**
- (i) subsections 70(4) and (5);**
- (j) section 71;**
- (k) sections 73 and 74;**
- (l) clause 75(b)(ii)(B);**
- (m) section 78.**

**(2) The following provisions come into force on a day or days to be fixed by order of the Commissioner, but no earlier than the day referred to in subsection (1):**

- (a) sections 4 and 5;**
- (b) subsection 6(5);**
- (c) sections 7 to 21;**
- (d) subsections 22(2) and (3), 23(2) and 24(2);**
- (e) sections 28 and 29;**
- (f) section 33;**
- (g) subsection 35(4);**
- (h) subsection 36(3);**
- (i) subsection 38(5);**

- (j) subsection 65(1), except paragraphs (a), (s), (v) to (x), (ab), (ac) and (af) to (an);
- (k) subsections 65(2) and (3).

(3) The following provisions come into force on Assent:

- (a) section 67;
- (b) subsection 68(1);
- (c) subsections 70(1) to (3);
- (d) section 75, except clause (b)(ii)(B);
- (e) section 76.

(4) Subsections 72(1) to (8) come into force on a day to be fixed by order of the Commissioner on the recommendation of the Minister responsible for the *Tobacco Control Act*, S.Nu. 2003,c.13.

(5) Subsections 68(2) and (3) come into force immediately after the coming into force of section 22 of *An Act to Amend the Motor Vehicles Act*, S.Nu. 2017,c.20, or, if that section is already in force, on Assent.

(6) Subsections 68(4) and (5) and sections 77 and 79 come into force on a day to be fixed by order of the Commissioner on the recommendation of the Minister responsible for the *Motor Vehicles Act*, R.S.N.W.T. 1988,c.M-16, but no earlier than the day section 15 of *An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts* (Canada), introduced in the House of Commons as Bill C-46 on April 13, 2017, comes into force.

(7) Subsection 72(9) comes into force immediate after subsection 8(3) of the *Cannabis Statutes Amendment Act*, introduced as Bill 3 in the Second Session of the Fifth Legislative Assembly, comes into force, or if that subsection is already in force, on Assent.