

Chapter 10

AN ACT TO AMEND THE JUDICATURE ACT

(Assented to June 10, 2010)

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

1. The *Judicature Act* is amended by adding the following immediately after Section 51:

ABUSE OF PROCESS

Definitions

51.1. In sections 51.2 to 51.5, "court" means the Nunavut Court of Justice and the Court of Appeal.

Order restraining vexatious proceedings

51.2. (1) Where a court is satisfied that a person has, persistently and without reasonable grounds, commenced vexatious proceedings or conducted legal proceedings in a vexatious manner against the same or different persons, the court may make an order restraining the person from

- (a) commencing further proceedings on the person's own behalf or on behalf of another person; or
- (b) continuing to conduct proceedings.

Scope of order

(2) The order may apply to any other person specified by the court who in the opinion of the court is associated with a person against whom the order is made.

Motion for order

(3) A motion for an order under subsection (1) may be made by a party against whom the vexatious proceedings have been commenced or conducted, the court on its own motion, the Attorney General of Nunavut or, with leave of the court, any other person.

Notice of motion

(4) Notice of a motion for an order under subsection (1) must be given to the Attorney General of Nunavut, except when the Commissioner or Government of Nunavut is a party to the proceedings in respect of which the motion is made.

Limitation

(5) An order may not be made against counsel of record or a lawyer who substitutes for counsel of record.

Appeal

51.3. (1) A person against whom an order has been made under subsection 51.2 (1) may appeal the order to the Court of Appeal.

Rules relating to appeals

(2) The Court of Appeal may make rules of procedure respecting the appeal of an order made under subsection 51.2(1).

Motion for leave

51.4. (1) A person against whom an order has been made under subsection 51.2 (1) may make a motion for leave to commence or continue proceedings and, where a court is satisfied that the proceedings are not an abuse of process and are based on reasonable grounds, the court may grant leave on such terms as the court determines.

Notice of motion

(2) Notice of a motion for leave under subsection (1) must be given to the Attorney General of Nunavut, except when the Commissioner or Government of Nunavut is a party to the proceedings in respect of which the motion is made.

Limitation

(3) There is no appeal from a decision to grant or refuse leave under subsection (1).

Rules relating to motions for leave

(4) A court may make rules of procedure respecting a motion for leave, including any limits on, or consideration that should be given to, the frequency of motions made by or on behalf of the person making the motion for leave.

Authority of court preserved

51.5. Nothing in sections 51.2 to 51.4 limits the authority of a court to make an order in respect of an abuse of a process of the court, including an order for dismissal, for a stay of proceedings, for payment of money into court or to strike a pleading.