

**OFFICIAL CONSOLIDATION OF SUMMARY CONVICTION
PROCEDURES ACT
C.S.Nu.,c.S-140**

(Consolidation date: September 16, 2021)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

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

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

S.N.W.T. 1998,c.34

In force April 1, 1999

R.S.N.W.T. 1988,c.S-15,

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2011,c.10,s.35

s.35 in force March 10, 2011

S.Nu. 2012,c.17,s.27

s.27 in force June 8, 2012

S.Nu. 2017,c.22,s.29,30

s.29,30 in force June 8, 2017

S.Nu. 2020,c.15,s.142(1),(3)

s.142(1) and (3) in force July 1, 2021: R-030-2021

S.Nu. 2021,c.23

In force September 16, 2021

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

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

Citation of Acts

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

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SUMMARY CONVICTION PROCEDURES ACT

INTERPRETATION

Definition of "justice"

1. In this Act, "justice" includes a judge. S.N.W.T. 1998,c.34,Sch.C,s.33.

GENERAL

Summary conviction offences

2. (1) The provisions of the *Criminal Code* relating to summary conviction offences apply, with such modifications as the circumstances require, to all offences created by an enactment or municipal by-law, except to the extent that the enactment or municipal by-law or this Act or the regulations otherwise provides.

Exemption

- (2) Subsections 145(2), (4) to (6), (8) to (11) and 803(2) and (3) of the *Criminal Code* do not apply to offences created by an enactment or municipal by-law.

References to Attorney General

- (3) For the purposes of this Act, a reference to the "Attorney General" in the *Criminal Code* is,

- (a) with respect to an offence created by an enactment, a reference to the Attorney General for Nunavut, including counsel or agent for the Attorney General for Nunavut; and
- (b) with respect to an offence created by a municipal by-law, a reference to counsel or agent for the municipality.

Agency agreements

- (4) For greater certainty,
 - (a) the Attorney General for Nunavut may enter into an agency agreement with the Attorney General of Canada for the purpose of conducting prosecutions, appeals and other proceedings related to offences created by an enactment; and
 - (b) a municipality may enter into an agency agreement with the Attorney General for Nunavut or the Attorney General of Canada for the purpose of conducting prosecutions, appeals and other proceedings related to offences created by a municipal by-law.

Named party – Government of Nunavut

- (5) The Government of Nunavut, and not the Crown, is a named party to every proceeding conducted under this Act by the Attorney General for Nunavut, including counsel or agent for the Attorney General for Nunavut, other than pursuant to an agency agreement referred to in paragraph (4)(b).

Named party – municipality

(6) A municipality, and not the Crown, is a named party to every proceeding conducted under this Act by counsel or agent for the municipality.

S.Nu. 2021,c.23

Limitation period

3. Unless an enactment otherwise provides, no proceedings may be commenced more than six months after the time when the subject-matter of the proceedings arose.

S.Nu. 2011,c.10,s.35(2); S.Nu. 2012,c.17,s.27.

Failure to appear

4. (1) Where a person who is accused of committing an offence under an enactment or municipal by-law and

- (a) has given to an officer in charge a promise to appear or has entered into a recognizance before an officer in charge to attend before a justice and the promise to appear or recognizance has been confirmed by a justice,
- (b) has given an undertaking or a promise to appear to a justice or has entered into a recognizance before a justice to attend before a justice,
- (c) to whom an appearance notice has been issued by a peace officer and confirmed by a justice, or
- (d) to whom a summons by ticket or otherwise has been issued,

fails to appear before a justice at the time and place appointed in the undertaking, promise to appear, recognizance, appearance notice or summons, or having appeared before a justice fails to attend before a justice as required after that by the justice or does not appear for the resumption of a trial that has been adjourned, a justice may

- (e) adjourn the proceedings for a period not exceeding 90 days and order that a summons be sent to that person, in the manner that the justice directs, advising that person of a new date for his or her appearance,
- (f) proceed *ex parte* to hear and determine the proceedings in the absence of that person as fully and effectually as if that person had appeared, or
- (g) issue a warrant for the arrest of that person and adjourn the proceedings until that person is brought before the justice.

Idem

(2) Where proceedings are adjourned under paragraph (1)(e) and the person fails to appear before a justice at the time and place appointed in the summons, a justice may

- (a) proceed *ex parte* to hear and determine the proceedings in the absence of that person as fully and effectually as if that person had appeared; or
- (b) issue a warrant for the arrest of that person and adjourn the proceedings until that person is brought before the justice.

Limitation on proceeding

(3) Where an appearance notice has been issued or a summons has been served, a justice may proceed under paragraph (1)(f) or (g) or subsection (2), only where it is proved that the issue of the appearance notice or service of the summons was made within a reasonable time before the appearance was required.

Offence and punishment

5. Where a person who is accused of committing an offence under an enactment or municipal by-law and

- (a) has given to an officer in charge a promise to appear or has entered into a recognizance before an officer in charge to attend before a justice and the promise to appear or recognizance has been confirmed by a justice,
- (b) has given an undertaking or a promise to appear to a justice or has entered into a recognizance before a justice to attend before a justice,
- (c) to whom an appearance notice has been issued by a peace officer and confirmed by a justice, or
- (d) to whom a summons by ticket or otherwise has been issued,

fails, without lawful excuse, the proof which lies on the person, to appear before a justice at the time and place appointed in the undertaking, promise to appear, recognizance, appearance notice or summons or having appeared before a justice fails to attend before a justice as required after that by the justice or does not appear for the resumption of a trial that has been adjourned, is guilty of an offence and liable on summary conviction to a fine not exceeding \$150.

Non-application of sections 4 and 5

6. Sections 4 and 5 do not apply where, pursuant to subsection 11(3), the accused is deemed to be convicted of the offence charged.

TICKETS

Interpretation

7. Any references in sections 8 to 11 to an information, report of conviction, police record or summons shall be construed as references to the part of a ticket constituting it.

Ticket

8. An information may be laid and a summons issued by means of a ticket issued in accordance with this Act and the regulations instead of the procedure set out in the *Criminal Code* for laying an information and for issuing a summons in respect of

- (a) any prescribed offence under any prescribed enactment; or
- (b) any offence under a municipal by-law.

Composition of ticket

9. (1) A ticket must consist of the following parts:

- (a) information;

- (b) report of conviction;
- (c) police record;
- (d) summons;
- (e) any other parts either separate or attached to the ticket that may be prescribed, including the additional part or endorsement mentioned in subsection 11(2).

Designation of offence

(2) The use on a ticket of any word, figure, expression or device or any combination of them to designate an offence under an enactment or municipal by-law to which this Act applies is sufficient for all purposes to describe the offence designated.

Definitions

10. (1) In this section,

"parent" includes, in respect of another person, any person who is under a legal duty to provide for that other person or any person who has, in law or in fact, the custody or control of that other person; (*parent*)

"peace officer" means

- (a) a member of the Royal Canadian Mounted Police,
- (b) a by-law officer in respect of an offence under a municipal by-law, or
- (c) a person prescribed as a peace officer or a member of a class of persons prescribed as peace officers. (*agent de la paix*)

Indicating offence

(2) A peace officer shall indicate on the ticket the offence charged in the prescribed manner.

Service

(3) On completing a ticket and affixing his or her signature to it in the space provided for that purpose, the peace officer shall deliver the summons

- (a) to the person charged with an offence, or
- (b) in the case of a parking violation, to the vehicle,

and the delivery shall be deemed to be personal service of the summons on that person or the owner of the vehicle, as the case may be.

Laying information

(4) Where the summons is not delivered by a peace officer in accordance with subsection (3), the information may be used to lay an information before a justice, in which case the summons may, for the purpose of information only, be attached to the summons issued by the justice.

Young person

(5) If a summons has been issued to a young person, a peace officer shall make reasonable efforts to serve a copy of the summons on the young person's parent.

Information

(6) The information shall

- (a) either before or after delivery of the summons to the person charged, be signed by an informant and the facts set out in the information sworn to before a justice; and
- (b) be deposited, together with the report of conviction, with a justice.

Failure to set out certain information

(7) The failure to set out in a ticket any information respecting age, birthday, occupation or other similar matter called for by the ticket, does not invalidate the ticket or any part of the ticket.

Service on parent

(8) The failure to serve the summons on the young person's parent does not invalidate any proceedings under this Act.

Delivery of summons

(9) A summons may be delivered on a holiday and an information need not be sworn to before the summons is delivered. S.Nu. 2011,c.10,s.35(3); S.Nu. 2017,c.22,s.30.

Definitions

11. (1) In this section,

"accused" means the person to whom a summons is directed; (*prévenu*)

"summons" means a ticket summons referred to in subsection (2). (*assignation*)

Payment of ticket summons out of court

(2) The Minister may prescribe a form of ticket summons under subsection 9(1) having an additional part or endorsement on it to the effect that the accused may pay out of court a specified sum if the accused wishes to plead guilty.

Where appearance not required

(3) An accused is not required to appear in answer to a summons if, within the time stated in the summons, the accused

- (a) signs the plea of guilty endorsed on the summons, and
- (b) delivers the summons and the specified penalty to the place stated in the summons,

and on doing so, the accused shall be deemed to be convicted of the offence charged.

Proof of signature

(4) A signature affixed to a plea of guilty on a summons and purporting to be that of the accused is, in the absence of evidence to the contrary, proof that it is the signature of that person.

Presumption of signature

(5) Where a summons and the specified penalty are delivered to the place stated in the summons but the plea of guilty in the summons is not signed, it shall be presumed, unless the contrary is established, to be signed by the accused.

Late delivery

(6) Where a summons and the specified penalty are delivered to the place stated in the summons after the time stated in the summons as being allowed for the delivery, a justice may,

- (a) without a hearing, and
- (b) notwithstanding any action the justice may have previously taken in respect of the accused,

direct that the summons and penalty be accepted as if they had been delivered within the time allowed.

Regulations

(7) The Minister may prescribe in respect of a summons

- (a) the offences in respect of which a penalty may be paid out of court in place of appearing in answer to the summons; and
- (b) the amount of the penalty payable in respect of an offence prescribed under paragraph (a).

By-laws

(8) A municipal council may, by by-law, provide for, in respect of a summons,

- (a) the offences under any by-law in respect of which a penalty may be paid out of court to the municipal corporation in place of appearing in answer to the summons; and
- (b) the amount of the penalty payable in respect of an offence provided for under paragraph (a).

S.Nu. 2020,c.15,s.142(3).

REGULATIONS

Regulations

12. The Minister may make regulations

- (a) **repealed, S.N.W.T. 1995,c.11,s.59.**
- (b) **repealed, S.N.W.T. 1995,c.11,s.59.**
- (c) prescribing the form of ticket for use under this Act;
- (d) authorizing the use on a ticket of any word, figure, expression or device or any combination of them to designate an offence;

- (e) respecting the forwarding by justices of reports of convictions to the Government of Nunavut;
 - (f) respecting any other matter that the Minister considers necessary or advisable for carrying out the purposes and provisions of this Act; and
 - (g) prescribing any matter or thing that by this Act may or is to be prescribed.
- S.Nu. 2011,c.10,s.35(4),(5),(6); S.Nu. 2020,c.15,s.142(1),(3).