

CONSOLIDATION OF INTERPROVINCIAL SUBPOENAS ACT
R.S.N.W.T. 1988,c.I-9

(Current to: October 5, 2013)

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

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

In force April 1, 1999

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2010,c.3,s.8

s.8 in force March 23, 2010

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A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

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

Citation of Acts

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

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INTERPROVINCIAL SUBPOENAS ACT

Definitions

1. In this Act,

"court" means

- (a) any court in Nunavut or another territory or province,
- (b) a territorial judge in a territory or a magistrate in a province having the power to issue subpoenas,
- (c) any board, tribunal, commission, committee or other body in Nunavut or another territory or province having power to issue a subpoena, and
- (d) a coroner in Nunavut or another territory or province having power to issue a subpoena; (*tribunal*)

"issuing jurisdiction" means the province or the territory from which a subpoena is issued; (*province ou territoire d'origine*)

"subpoena" means a subpoena, warrant, summons or other document issued by a court compelling, commanding or requiring a person to attend as a witness before that court. (*subpoena*) S.N.W.T. 1998,c.34,Sch.C,s.15; S.Nu. 2010,c.3,s.8.

Application

2. This Act does not apply to a subpoena that is issued in respect of a criminal offence under an Act of Canada.

Adoption of subpoena

- 3.** (1) The Nunavut Court of Justice shall receive and adopt as an order of the Nunavut Court of Justice a subpoena issued by a court outside Nunavut if
- (a) the subpoena is accompanied by a certificate signed by a judge of a superior, county or district court of the issuing jurisdiction and sealed with the seal of that court, stating that, on hearing and examining the applicant, the judge is satisfied that the attendance in the issuing jurisdiction of the person subpoenaed
 - (i) is necessary for the adjudication of the proceeding in respect of which the subpoena is issued, and
 - (ii) in relation to the nature and importance of the cause or proceeding, is reasonable and essential to the administration of justice in that jurisdiction; and
 - (b) the subpoena is accompanied by the prescribed witness fees and travelling expenses.

Form of certificate

(2) A certificate referred to in paragraph (1)(a) may be in the prescribed form or in a similar form. S.Nu. 2010,c.3,s.8.

Restriction

4. The Nunavut Court of Justice shall not receive and adopt a subpoena under section 3 unless the law of the issuing jurisdiction has a provision similar to section 7 providing absolute immunity to a resident of the Nunavut who is required to attend as a witness in that jurisdiction from all proceedings of the nature set out in section 7 and within the jurisdiction of the legislature of that jurisdiction except those proceedings grounded on events occurring during or after the required attendance of the person in that jurisdiction. S.Nu. 2010,c.3,s.8.

Failure to comply with subpoena

5. A person is in contempt of court and subject to the punishment that the Nunavut Court of Justice may impose who

- (a) has been served with a subpoena adopted under section 3;
- (b) has been given the prescribed witness fee and travelling expenses not less than 20 days, or a shorter period that the judge of the court in the issuing jurisdiction indicates in his or her certificate, before the date the person is required to attend in the issuing court; and
- (c) fails without lawful excuse to comply with the subpoena.

S.Nu. 2010,c.3,s.8.

Examination

6. (1) Where a party to a proceeding in a court in Nunavut causes a subpoena to be issued for service in a province or the territory, the party may attend on a judge of the Nunavut Court of Justice who shall hear and examine the party or his or her counsel.

Certificate

(2) On an examination under subsection (1), where the judge is satisfied that the attendance in Nunavut of the person required as a witness

- (a) is necessary for the adjudication of the proceeding in which the subpoena has been issued, and
- (b) in relation to the nature and importance of the proceedings, is reasonable and essential to the administration of justice in Nunavut,

the judge shall sign a certificate in the prescribed form in and cause the certificate to be sealed with the seal of the Nunavut Court of Justice.

Form of certificate

(3) The certificate referred to in subsection (2) must be attached to or endorsed on the subpoena in respect of which it is issued. S.Nu. 2010,c.3,s.8.

Immunity

7. A person required to attend before a court in Nunavut by a subpoena adopted by a court outside Nunavut

- (a) shall be deemed, while within Nunavut for the purpose for which the subpoena was issued, not to be subject to the jurisdiction of the courts of Nunavut other than as a witness in the proceedings in which he or she is subpoenaed; and

- (b) is absolutely immune from seizure of goods, service of process, execution of judgment, garnishment, imprisonment or molestation of any kind relating to a legal or judicial right, cause, action, proceeding or process within the jurisdiction of the Legislature except proceedings grounded on events occurring during or after the required attendance of the person in Nunavut.
S.Nu. 2010,c.3,s.8.

Additional fees and expenses

8. (1) A person who is required to attend before a court in Nunavut by a subpoena adopted by a court outside Nunavut may request the court to order additional fees and expenses to be paid in respect of his or her attendance as a witness.

Order

(2) Where the court is satisfied that the amount of fees and expenses previously paid to a person referred to in subsection (1) in respect of his or her attendance is insufficient, the court may order the party who obtained the subpoena to pay the person without delay the additional fees and expenses that the court considers sufficient.

Amounts paid

(3) Amounts paid pursuant to an order made under subsection (2) are disbursements in the cause. S.Nu. 2010,c.3,s.8.

Regulations

9. On the recommendation of the Minister, the Commissioner may make regulations that the Commissioner considers necessary for carrying out the provisions of this Act according to their true nature and intent and, without limiting this power to make regulations, may make regulations

- (a) prescribing the form of the certificate referred to in subsections 3(2) and 6(2);
- (b) prescribing additional forms to be used for the purposes of this Act; and
- (c) prescribing fees and travelling expenses for witnesses.