

CONSOLIDATION OF JUDICATURE ACT

S.N.W.T. 1998,c.34,s.1

In force April 1, 1999

(Current to: September 1, 2012)

AS AMENDED BY:

S.Nu. 2000,c.3 (as amended by S.Nu. 2005,c.3,s.6(1) [in force March 22, 2005])

In force March 31, 2000, except s.1-3,5-7

s.1,2 in force August 18, 2008: SI-005-2008

s.3,5-7 NIF

S.Nu. 2003,c.4,s.15,16

s.15,16 in force March 28, 2003

S.Nu. 2008,c.19,s.4

s.4 in force September 18, 2008, except s.4(2),(3)

s.4(2) in force August 18, 2008 (deemed)

s.4(3) NIF

S.Nu. 2010,c.10

In force June 10, 2010

S.Nu. 2011,c.11,s.1

s.1 in force March 10, 2011

S.Nu. 2011,c.26

In force October 31, 2011

S.Nu. 2012,c.14

In force June 8, 2012

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

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Territorial Printer
Legislation Division
Department of Justice
Government of Nunavut
P.O. Box 1000, Station 550
Iqaluit, NU X0A 0H0

Tel.: (867) 975-6305
Fax: (867) 975-6189
Email: Territorial.Printer@gov.nu.ca

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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JUDICATURE ACT

INTERPRETATION

Definitions

1. In this Act,

"action" means a civil proceeding commenced in the manner that may be established by this Act or by the Rules of the Nunavut Court of Justice; (*action*)

"cause" includes any action, suit or other original proceeding between a plaintiff and a defendant; (*cause*)

"Clerk" means the Clerk of the Nunavut Court of Justice appointed under section 61; (*greffier*)

"court facility" means any building in which a court sits regularly or is sitting on a temporary basis, or, if a court is sitting in a building and only a part of that building is being used by the court for its purposes, that part of the building; (*locaux d'un tribunal*)

"Court of Appeal" means the Court of Appeal of Nunavut established by subsection 31(1) of the *Nunavut Act*; (*Cour d'appel*)

"defendant" includes

- (a) every person who is served with a process or notice of a proceeding, and
- (b) every person entitled to attend a proceeding; (*défendeur*)

"judge" means a judge of the Nunavut Court of Justice, and includes a deputy judge, a supernumerary judge and an *ex officio* judge of that court; (*juge*)

"judgment" includes a decree, order and ruling; (*jugement*)

"matter" includes every proceeding in the Nunavut Court of Justice not in a cause; (*affaire*)

"Nunavut Court of Justice" means the Nunavut Court of Justice, established by subsection 31(1) of the *Nunavut Act*; (*Cour de justice du Nunavut*)

"party" includes every person served with notice of or taking part in a proceeding, whether or not the person is named in the record; (*partie*)

"petitioner" includes every person making an application to the Nunavut Court of Justice, whether by petition, motion or summons, otherwise than as against a defendant; (*requérant*)

"plaintiff" includes every person asking relief, otherwise than by way of counterclaim as a defendant, against any other person by any form of proceeding; (*demandeur*)

"pleading" includes a summons, the statement in writing of the claim or demand of a plaintiff, or the defence of a defendant to it, and of the reply of the plaintiff to a counterclaim of the defendant; (*acte de procédure*)

"restricted zone" means a part of a court facility designated as a restricted zone pursuant to section 77.2; (*zone d'accès restreint*)

"Rules of the Nunavut Court of Justice" means the rules referred to in section 59; (*Règles de la Cour de justice du Nunavut*)

"screen" means to search as described in section 77.4; (*contrôle*)

"Sheriff" means the Sheriff appointed under section 67; (*shérif*)

"verdict" includes the finding of a jury and the decision of a judge; (*verdict*)

"weapon" means:

- (a) a firearm as defined in the *Criminal Code* (Canada),
 - (b) anything else that could be used to:
 - (i) cause death or serious bodily harm to a person, or
 - (ii) threaten or intimidate a person. (*arme*)
- S.Nu. 2012,c.14,s.2.

NUNAVUT COURT OF JUSTICE

Nunavut Court of Justice

2. (1) The Nunavut Court of Justice is a superior court of record in Nunavut and has all the jurisdiction, powers and authority of such a court.

Jurisdiction and powers of Nunavut Court of Justice

(2) For the administration of the laws for the time being in force in Nunavut, the Nunavut Court of Justice possesses, within Nunavut, any jurisdiction, powers, rights, incidents, privileges and immunities that, immediately before April 1, 1999, were vested in or capable of being exercised by

- (a) the Supreme Court of the Northwest Territories, as constituted under the *Northwest Territories Act* (Canada); and
- (b) the Territorial Court of the Northwest Territories, as established by the *Territorial Court Act* (Northwest Territories).

Seal

3. The seal of the Nunavut Court of Justice shall be in a form determined by the Nunavut Court of Justice.

Composition of Nunavut Court of Justice

- 4.** (1) The Nunavut Court of Justice shall be composed of
- (a) the senior judge and other judges appointed by the Governor in Council;
 - (b) any *ex officio* judges;
 - (c) any deputy judges that may be appointed from time to time by the Governor in Council; and
 - (d) any supernumerary judges.

References to a judge of a court

(2) Where under an Act of Nunavut, an Act of Canada or any other law in force in Nunavut, any power or authority is to be exercised or anything is to be done by a judge of a court, that power or authority shall, in Nunavut, be exercised or that thing shall be done by a judge of the Nunavut Court of Justice, unless otherwise required under that Act or law. S.Nu. 2000,c.3,s.2; S.Nu. 2005,c.3,s.6(1); S.Nu. 2008,c.19,s.4(2).

Note: On the day on which section 3 of *An Act to Amend the Judicature Act and Other Acts in Relation to Judges*, S.Nu.2000,c.3, comes into force, paragraph 4(1)(a) is amended by striking out "senior judge" and by substituting "Chief Justice".

See S.Nu. 2008,c.19,s.4(3).

Supernumerary judges

- 5.** (1) For each office of judge referred to in paragraph 4(1)(a), there is an additional office of supernumerary judge.

Election to hold office

(2) Any judge referred to in paragraph 4(1)(a) may elect to hold office as a supernumerary judge on compliance with and on meeting the qualifications of the *Judges Act* (Canada).

Justice of the peace powers, duties and functions

- 6.** (1) A judge of the Nunavut Court of Justice may exercise and perform the powers, duties and functions of a justice of the peace.

Supervision of justices of the peace

(2) The senior judge of the Nunavut Court of Justice, or another judge of that court designated by the senior judge, is responsible for the supervision of justices of the peace.

Note: On a day to be fixed by order of the Commissioner, subsection 6(2) is repealed and substituted by:

Supervision of justices of the peace

(2) The Chief Justice of the Nunavut Court of Justice, or another judge of that court designated by the Chief Justice, is responsible for the supervision of justices of the peace.

See S.Nu. 2000,c.3,s.3.

Deputy judge

7. A deputy judge or *ex officio* judge of the Nunavut Court of Justice has and may exercise, during his or her appointment, all the powers, rights, incidents, privileges and immunities that are vested in a judge.

Oath of office

8. (1) Every judge shall, before entering on the duties of the office of judge, take the following oath of office:

I,, solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as of the Nunavut Court of Justice. So help me God.

Administration of oath

- (2) The oath of office referred to in subsection (1) shall be administered by
- (a) a judge;
 - (b) the Commissioner; or
 - (c) a person authorized by the Commissioner to administer the oath.

Judgment after termination of office

9. (1) Where a judge ceases to hold the office of judge, and a cause or matter that has been fully heard by the judge stands for judgment, the judge may, within six weeks after ceasing to hold office, give judgment in respect of that cause or matter as if he or she were still a judge.

Force and validity of judgment

(2) A judgment referred to in subsection (1) is of the same force and validity as if the former judge were still a judge.

Power to make vesting orders

10. (1) Where the Nunavut Court of Justice has authority to order the execution of a deed of conveyance, transfer or assignment of real or personal property, the Nunavut Court of Justice may, by order, vest that real or personal property in the person or persons and in the manner and for the estates that would be done by that deed, conveyance, assignment or transfer if executed.

Effect of order

- (2) An order made under subsection (1) has the same effect
- (a) as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest to the person in whom the estate or interest is so ordered to be vested; or
 - (b) in the case of a chose in action, as if the chose in action had been actually assigned to the person in whom the chose in action is so ordered to be vested.

Application to probate, etc. granted outside Nunavut

11. (1) This section applies to probate, letters of administration or any other legal document purporting to be of the same nature granted by a court of competent jurisdiction in

- (a) any other territory or province;
- (b) the United Kingdom;
- (c) any British possession;
- (d) any nation or territory that is a member of the British Commonwealth of Nations;
- (e) any state of the United States; or
- (f) any territory or dependency of the United States.

Sealing the document

(2) Where a document referred to in subsection (1) is presented to the Nunavut Court of Justice, it may be sealed with the seal of the Nunavut Court of Justice where

- (a) a copy of the document is deposited with the Clerk;
- (b) the prescribed fees are paid as on a grant of probate or administration; and
- (c) a certificate under the hand of the registrar of the court that issued the document is filed with the Clerk stating that security has been given in that court in an amount sufficient to cover the assets within the jurisdiction of that court and the assets within Nunavut or, in the absence of that certificate, security of like amount is given to the Nunavut Court of Justice.

Effect of document

(3) Once the document is sealed with the seal of the Nunavut Court of Justice, it has the same force and effect in Nunavut as if it had been originally granted by the Nunavut Court of Justice.

Subject to other orders

(4) The document shall, in respect of Nunavut, be subject to any order made by the Nunavut Court of Justice or the Court of Appeal as if the document had been granted by the Nunavut Court of Justice.

Where chambers sittings become Nunavut Court of Justice sittings

12. (1) A judge sitting in chambers, on stating that he or she is sitting in the Nunavut Court of Justice, has and may exercise and enjoy all the powers, rights, incidents, privileges and immunities that the judge has when presiding over the trial of an action.

Force and effect of judgment or decision

(2) A judgment given or a decision, determination, ruling, order or decree made by a judge while sitting in chambers after making the statement referred to in subsection (1) has the same force and effect as if made by the judge while presiding over the trial of an action.

Procedure and practice

13. The jurisdiction of the Nunavut Court of Justice or of a judge with regard to procedure and practice shall be exercised in the manner provided by this Act and the Rules of the Nunavut Court of Justice.

YOUTH COURT AND YOUTH JUSTICE COURT

Designation of court

14. (1) For the purposes of the *Young Offenders Act* and the *Youth Criminal Justice Act* (Canada), the following are designated as Youth Courts:

- (a) the Nunavut Court of Justice;
- (b) the justices of the peace appointed as youth court and youth justice court judges under the *Justices of the Peace Act*.

Court of record

(2) A Youth Court and a youth justice court are courts of record.
S.Nu. 2003,c.4,s.15.

COURT OF APPEAL

Court of Appeal of Nunavut

15. (1) The Court of Appeal is an appellate court for Nunavut.

Superior court of record

(2) The Court of Appeal is a superior court of record with all the jurisdiction, powers and authority of such a court.

Powers and jurisdiction

(3) For the administration of the laws for the time being in force in Nunavut, the Court of Appeal possesses, within Nunavut, any jurisdiction, powers, rights, incidents, privileges and immunities that were vested in or capable of being exercised, immediately before April 1, 1999, by the Court of Appeal for the Northwest Territories.

Seal

16. The seal of the Court of Appeal shall be in a form determined by the Court of Appeal.

Composition of Court of Appeal

17. (1) The Court of Appeal is composed of a Chief Justice and the other justices of appeal that are appointed by the Governor in Council from among the

- (a) judges of any court of appeal of any province or territory;
- (b) judges of the Nunavut Court of Justice; and
- (c) judges of the Supreme Court of the Northwest Territories and the Supreme Court of the Yukon Territory.

Oath of office

(2) Every judge of the Court of Appeal shall, before assuming the duties of office of a judge of the Court of Appeal, take and subscribe before a judge of the Court of Appeal, the Commissioner or a person appointed by the Commissioner for that purpose, the following oath:

I,, solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as one of the judges of the Court of Appeal. So help me God.

Where Chief Justice unable to act

(3) The senior puisne judge among the judges appointed to the Court of Appeal has and may exercise and perform the powers and functions of the Chief Justice of the Court of Appeal where the Chief Justice is ill or unable to act or the office is vacant.

Presiding judge

(4) The Chief Justice of the Court of Appeal shall preside at any sittings of the Court of Appeal at which he or she is present and shall designate another judge of the Court of Appeal to preside at any sittings of the Court of Appeal at which the Chief Justice is not present. S.Nu. 2000,c.3,s.4.

Sittings

18. (1) The Court of Appeal may sit in Nunavut or in any other territory or province.

Quorum

(2) Three judges of the Court of Appeal constitute a quorum.

Meetings of judges of Court of Appeal

(3) The judges of the Court of Appeal may meet, on a day fixed by the Chief Justice of the Court of Appeal, to consider the operation of this Act and the rules of the Court of Appeal referred to in section 60, and to consider the administration of justice generally.

Notice of appeal

19. (1) Unless otherwise specified in any other statute or Act, notice of an appeal to the Court of Appeal shall be given within 30 days after,

- (a) in the case of a judgment, the formal judgment or order is signed, entered and served;
- (b) in the case of an order, the order has been signed, issued and served;
- (c) in the case of a direction, the judgment or order resulting from it has been signed, entered or issued, and served; and
- (d) in the case of a finding or verdict, the judgment or order resulting from it has been signed, entered or issued, and served.

Extension

(2) The periods set out in subsection (1) may be extended by the judge who made the decision being appealed or by a judge of the Court of Appeal.

Single judge of Court of Appeal

20. Notwithstanding subsection 18(2), a single judge of the Court of Appeal may sit alone to hear an appeal or to review a decision where expressly authorized to do so by an enactment of Nunavut or Canada.

RULES OF LAW AND EQUITY

Rules of law and equity

21. In every cause or matter, law and equity shall be administered according to sections 22 to 47.

Claim by plaintiff or petitioner on equitable or legal right

22. (1) A court shall give to a plaintiff or petitioner the relief that would be given by the High Court of Justice in England in a similar case, where the plaintiff or petitioner claims to be entitled to

- (a) any equitable estate or right;
- (b) relief on any equitable grounds against any deed, instrument or contract, or against any right, title or claim asserted by a defendant or respondent in such cause or matter; or
- (c) relief founded on a legal right, in a suit or proceeding for the same or a similar purpose.

Defence to claim for relief

(2) A court shall give the same effect to a defence against a claim of a plaintiff or petitioner as the High Court of Justice in England would give in a similar case, where the defendant

- (a) claims to be entitled to any equitable estate or right;
- (b) claims to be entitled to relief on any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by a plaintiff or petitioner in such cause or matter; or
- (c) alleges any ground of equitable defence to a claim of the plaintiff in such cause or matter.

Claim by defendant against plaintiff or third party

23. (1) A court may grant to a defendant, in respect of any equitable estate or right or other matter of equity and in respect of any legal estate, right or title claimed or asserted by a defendant,

- (a) all relief against any plaintiff or petitioner that the defendant has properly claimed by his or her pleadings and as a court might have granted in a suit commenced for that purpose by the same defendant against the same plaintiff; and
- (b) all relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether or not already a party to the same cause or matter, who has been duly served with notice in writing of the claim under this Act or any order of the court as might properly have been granted against that person if that person had been made a defendant to a cause duly commenced by the same defendant for the like purpose.

Deeming provision

(2) Every person served with the notice referred to in paragraph (1)(b) shall from that time onward be deemed to be a party to the cause or matter with the same rights in respect of the defence against the claim as if he or she had been duly sued in the ordinary way by the defendant.

Recognition of equitable estates, etc.

24. A court shall recognize and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner as the High Court of Justice in England would recognize and take notice of them in any suit or proceeding duly commenced in that court.

Granting of remedies

25. A court, in the exercise of its jurisdiction in every cause or matter pending before it, has power to grant and shall grant either absolutely or on reasonable terms and conditions that it considers just, all remedies that any of the parties may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward

by them respectively in the cause or matter, so that as far as possible all matters so in controversy between the parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning those matters avoided.

Relief against penalties and forfeitures

26. Subject to appeal as in other cases, a court has power to relieve against all penalties and forfeitures and in granting that relief to impose terms as to costs, expenses, damages, compensation and all other matters that the court considers just.

Restraint on cause or matter by prohibition or injunction

27. (1) No cause or matter at any time pending in a court shall be restrained by prohibition or injunction but every matter of equity in which an injunction against the prosecution of any such cause or matter might have been obtained in England immediately before the passing of the *Supreme Court of Judicature Act, 1873* (U.K.) either unconditionally or on any terms or conditions may be relied on by way of defence to the cause or matter.

Stay of proceedings

(2) Notwithstanding subsection (1), nothing in this Act shall be construed as preventing a court from directing a stay of proceedings in any cause or matter pending before it if the court considers it just.

Motion for stay of proceedings

(3) Any person, whether or not a party to the cause or matter, may apply to the court by motion in a summary way for a stay of proceedings in a cause or matter, either generally or so far as may be necessary for the purposes of justice, where the person

- (a) would have been entitled in England, immediately before the passing of the *Supreme Court of Judicature Act, 1873* (U.K.), to apply to a court to restrain the prosecution of the cause or matter; or
- (b) may be entitled to enforce by attachment or otherwise any judgment, contrary to which all or any part of the proceedings in the cause or matter may have been taken.

Order of court

(4) A court shall, on a motion made under subsection (3), make the order that it considers just.

Relief of mortgagor in default

28. (1) A mortgagor may perform a covenant or pay any arrears that are in default, with costs to be taxed, where

- (a) default has occurred in making any payment due under the mortgage, or in the observance of the covenant contained in the mortgage, whether the default occurred before, on or after April 1, 1999; and

- (b) under the terms of the mortgage, the payment of other portions of the principal money is accelerated by reason of the default, and those portions become presently due and payable.

Exercise of right

(2) The right of the mortgagor under subsection (1) may be exercised at any time before sale or before the grant of a final order of foreclosure, notwithstanding any provision in the mortgage to the contrary.

Relief

(3) Upon performing the covenant or paying the arrears that are in default, the mortgagor shall be relieved from immediate payment of so much of the money secured by the mortgage as may not have become due and payable by lapse of time.

Relief of purchaser in default

29. (1) A purchaser may perform a covenant or pay any arrears that are in default under an agreement for sale of land, with costs to be taxed, where

- (a) default has occurred in making any payment due under the agreement, or in the observance of any covenant contained in the agreement, whether the default occurred before, on or after April 1, 1999; and
- (b) under the terms of the agreement, the payment of other portions of the money is accelerated by reason of the default, and those portions become presently due and payable.

Exercise of right

(2) The right of the purchaser under subsection (1) may be exercised at any time before final judgment in an action brought to enforce the rights of the vendor, notwithstanding any provision in the agreement to the contrary.

Relief

(3) Upon performing the covenant or paying the arrears, the purchaser shall be relieved from immediate payment of so much of the money as may not have become due and payable by lapse of time.

Amendment of pleadings in certain cases

30. (1) A court may permit the amendment of any pleadings or other proceeding in respect of an action to enforce any legal or equitable right on terms as to costs or otherwise that it considers just, if the amendment does not involve a change of parties other than a change caused by the death of one of the parties.

Limitation period

(2) The amendment may be permitted under subsection (1), notwithstanding that, between the time of the issue of the statement of claim and the application for amendment, the right of action would, but by reason of action brought, have been barred by any Act.

Breach of trust

31. No claim of a beneficiary of a trust against his or her trustee for any property held on an express trust or in respect of any breach of that trust shall be held to be barred by any Act limiting the time within which any cause or matter may be commenced.

Equitable waste

32. An estate for life without any impeachment of waste shall not confer or be deemed to have conferred on the tenant for life any legal right to commit waste of the description known as equitable waste unless an intention to confer that right expressly appears by the instrument creating the estate.

Merger

33. There shall not be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Suit by mortgagor for rents and profits

34. (1) A mortgagor entitled for the time being to the possession or receipt of the rents and profits of land as to which no notice of intention to take possession or to enter into the receipt of the rents and profits of that land has been given by the mortgagee may

- (a) sue for that possession;
- (b) sue or distrain for the recovery of those rents or profits; or
- (c) sue to prevent or recover damages in respect of any trespass or other related wrong.

Style of cause

(2) The mortgagor may sue in his or her name only, unless the cause of action arises on a lease or other contract made by the mortgagor jointly with any other person, in which case the mortgagor may sue or distrain jointly with that other person.

Disputed assignment of debt or other chose in action

35. Where an assignment of a debt or other chose in action is made and the debtor, trustee or other person liable in respect of the debt or chose in action has had notice that the assignment is disputed by the assignor or anyone claiming under the assignor, or of any other opposing or conflicting claim to the debt or chose in action, the debtor, trustee or such other person may

- (a) call on the several disputing and claiming persons to interplead concerning the debt or chose in action; or
- (b) pay the amount of the debt or chose in action into court under and in conformity with the *Trustee Act*.

Construction of time stipulations in contracts

36. Stipulations in contracts as to time or otherwise that would not in England, before the passing of the *Supreme Court of Judicature Act, 1873* (U.K.), have been deemed to be or to have become of the essence of those contracts in a court of equity shall receive in the court the same construction and effect as they would have received in equity.

Effect of part performance

37. Part performance of an obligation, either before or after a breach of that obligation, when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for the purpose, though without any new consideration, shall be held to extinguish the obligation.

Interlocutory mandamus or injunction

38. (1) A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of a court in all cases in which it appears to the court to be just or convenient that the order should be made and if an injunction is asked, either before or at or after the hearing of any cause or matter to prevent any threatened or apprehended waste or trespass, the injunction may be granted if the court considers it just

- (a) whether the person against whom the injunction is sought is or is not in possession under any claim of title or otherwise or, if out of possession, does or does not claim a right to do the act sought to be restrained under any colour of title; and
- (b) whether or not the estates claimed by both or by either of the parties are legal or equitable.

Terms and conditions of order

(2) The interlocutory order referred to in subsection (1) may be made either unconditionally or on terms and conditions that the court considers just.

Damages where injunction or specific performance

39. Where a court has jurisdiction to entertain an application for

- (a) an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act, or
- (b) the specific performance of any covenant, contract or agreement,

the court may, if it considers it just, award damages to the party injured either in addition to or in substitution for the injunction or specific performance, and the damages may be ascertained in the manner that the court may direct, or the court may grant other relief that it considers just.

Orders of court as against purchasers

40. An order of a court under the authority of an Act or otherwise shall not, as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service.

Minors

41. In all questions relating to the custody and education of minors, the rules of equity prevail.

Rules of equity

42. Where there is any conflict or variance between the rules of equity and common law with reference to the same matter, the rules of equity prevail.

Wages of minors

43. A minor may sue for wages in the same way as if he or she were of full age.

Negligence of employee

44. It is not a good defence in law to any action against an employer, or the successor or legal representative of an employer, for damages for the injury or death of an employee of the employer, that the injury or death resulted from the negligence of an employee engaged in a common employment with the injured employee, notwithstanding any contract or agreement to the contrary.

Declaratory judgments or orders

45. No action or proceeding is open to objection on the ground that a merely declaratory judgment or order is being sought, and a court may make binding declarations of right whether or not any consequential relief is or can be claimed.

Effect of giving time to principal debtor

46. The giving of time to a principal debtor, or the dealing with or altering of the security held by a principal creditor, does not of itself discharge a surety or guarantor, and in such cases, a surety or guarantor is entitled to set up the giving of time or the dealing with or alteration of the security as a defence only to the extent that the surety or guarantor shows that he or she was prejudiced by it.

Power of court to order sale of real estate

47. Where in any cause or matter relating to real estate or any interest in real estate, it appears necessary or expedient that the real estate or interest or any part of it should be sold, the court may order it to be sold, and any party bound by the order and in possession of the real estate or interest, or in receipt of the rents or profits of it, shall deliver up the possession or receipt to the purchaser or other person as ordered.

AMENDMENTS TO THE COMMON LAW

Independent spousal personality

48. (1) For all purposes of the law of Nunavut, a married person has a legal personality that is independent, separate and distinct from that of his or her spouse.

Capacity of married person

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if the person were unmarried.

Rights of married person

(3) Without limiting the generality of subsections (1) and (2),

- (a) each of the parties to a marriage has the same right of action in tort against the other as if they were not married;

- (b) a married woman is capable of acting as a litigation guardian or next friend as if she were an unmarried woman; and
- (c) a married woman is capable of acquiring a domicile independent from that of her husband and the same rules shall be applied to determine the domicile of a married woman as for a married man.

Limitation

(4) Paragraph (3)(a) does not apply where the cause of action arose before April 17, 1985.

Purpose

(5) The purpose of this section is to make the same law apply, and apply equally, to married men and married women and to remove any difference resulting from any common law rule or doctrine.

Construction

(6) This section shall be construed in a way that furthers its purpose.

Domicile of minor

- 49.** (1) Subject to subsection (2), the domicile of a person who is a minor is
- (a) the domicile of the parents of the minor, where the minor habitually resides with both parents and the parents have a common domicile;
 - (b) the domicile of the parent with whom the minor habitually resides, where the minor habitually resides with one parent only;
 - (c) the domicile of the person with whom the minor resides, where that person is not a parent but has lawful custody of the minor; or
 - (d) the jurisdiction with which the minor has the closest connection, where the domicile cannot be determined under paragraph (a), (b) or (c).

Domicile where minor is a spouse

(2) The domicile of a minor who is or has been a spouse shall be determined in the same manner as if the minor were an adult.

Action for seduction

50. No action shall be brought for seduction.

Abolition of distinction

51. For all purposes, any distinction at common law between the status of a child born in wedlock and born out of wedlock is abolished and the relationship of parent and child and kindred relationships flowing from that relationship shall be determined in accordance with Part I of the *Children's Law Act*.

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. S.Nu. 2010,c.10,s.1.

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. S.Nu. 2010,c.10,s.1.

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). S.Nu. 2010,c.10,s.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. S.Nu. 2010,c.10,s.1.

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. S.Nu. 2010,c.10,s.1.

INTEREST

Definition of "prime business rate"

52. (1) In this section and in sections 53 to 56, "prime business rate" means the rate of interest charged by banks to the most credit-worthy borrowers for prime business loans, as determined and published by the Bank of Canada.

Proof of prime business rate

(2) For the purpose of establishing the prime business rate, the periodic publication entitled *Bank of Canada Review* purporting to be published by the Bank of Canada is admissible in evidence as conclusive proof of the prime business rate as set out in it, without further proof of the authenticity of the publication.

Prejudgment interest

53. (1) Subject to section 55, a person who is entitled to a judgment for the payment of money is entitled to claim and have included in the judgment an award of interest on the money calculated,

- (a) where the judgment is given on a liquidated claim, from the day the cause of action arose to the day of the judgment; or
- (b) where the judgment is given on an unliquidated claim, from the day the person entitled gave notice in writing of his or her claim to the person liable for the claim to the day of the judgment.

Rate of prejudgment interest

(2) The rate of interest under subsection (1) is calculated as follows:

- (a) for the first six months of a year, the rate of interest is the prime business rate as at January 1 of that year;
- (b) for the last six months of a year, the rate of interest is the prime business rate as at July 1 of that year.

Special damages

(3) Where a judgment includes an amount for special damages, the interest on that amount to be included in the judgment pursuant to subsection (1) shall be calculated on the total of the special damages incurred as totalled

- (a) at the end of the period commencing with the giving of the notice in writing referred to in paragraph (1)(b) and ending with whichever of January 1 or July 1 first follows;
- (b) at the end of each subsequent six month period; and
- (c) at the day of the judgment.

Prejudgment interest not payable

(4) Interest shall not be awarded under this section

- (a) on exemplary or punitive damages;
- (b) on interest accruing under this section;
- (c) on an award of costs in the action;
- (d) on that part of the judgment that represents pecuniary loss arising after the day of the judgment and that is identified by a finding of the court;
- (e) on a judgment given on consent, unless the judgment debtor consents to the award of interest; or
- (f) where interest is payable by a right other than under this section.

Post-judgment interest

54. (1) An unsatisfied judgment bears interest from the later of the day the judgment is pronounced and the day money is payable under the judgment, notwithstanding that the entry of the judgment has been postponed by an appeal or another proceeding.

Rate of post-judgment interest

(2) The rate of interest payable under subsection (1) is calculated as follows:

- (a) for the first six months of a year, the rate of interest is the prime business rate as at January 1 of that year;
- (b) for the last six months of a year, the rate of interest is the prime business rate as at July 1 of that year.

Discretion of judge

55. Where a judge considers it to be just to do so in all the circumstances, he or she may, in respect of the whole or any part of the amount for which judgment is given,

- (a) disallow interest under section 53 or 54;

- (b) fix a rate of interest higher or lower than the prime business rate;
or
- (c) fix a day other than the day determined under subsection 53(1) or 54(1) from which interest is to run.

Capitalized value of award

56. (1) The rate of interest to be used in determining the capitalized value of an award in respect of future pecuniary damages, to the extent that it reflects the difference between estimated investment and price inflation rates, is 2.5% per year.

Amendment of rate

(2) The rate set out in subsection (1) may be amended from time to time by a rule made under section 59.

TENDER OF AMENDS

Tender of amends

57. A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may, at any time before the action is commenced, tender amends and the tender has the same effect as a tender in an action for the recovery of a debt.

QUESTIONING VALIDITY OF ENACTMENT

Notice where validity of enactment questioned

58. (1) Where the validity of an enactment of Nunavut or of Canada is brought into question in a court proceeding, the enactment shall not be held to be invalid unless notice has been given to the Attorney General of Nunavut or the Attorney General of Canada, or both, as the case may require or as the court may direct.

Content of notice

- (2) The notice referred to in subsection (1) shall
 - (a) specify the enactment alleged to be invalid and the grounds on which the enactment is alleged to be invalid; and
 - (b) be served on the Attorney General of Nunavut or the Attorney General of Canada, or both, as the case may require or as the court may direct, not less than 14 days before the date fixed by the court for the determination of the question, together with a copy of the pleadings in the case and any other material that has been filed in the court or submitted in evidence.

Right to be heard

(3) The Attorney General of Nunavut and the Attorney General of Canada are entitled as of right to be heard, either in person or by counsel in any proceeding to which this section applies.

Deeming provision

(4) Where the Attorney General of Nunavut or the Attorney General of Canada appears in person or by counsel in any proceeding to which this section applies, the Attorney General of Nunavut or the Attorney General of Canada shall be deemed to be a party to the proceeding and, for the purpose of an appeal from a decision of the court respecting the validity of an enactment, has the same rights as any other party.

RULES OF PROCEDURE

Making of Rules of the Nunavut Court of Justice

59. (1) The senior judge of the Nunavut Court of Justice may, with the approval of the judges of the Nunavut Court of Justice, make rules regulating the practice and procedure in the Nunavut Court of Justice.

Transitional rules of procedure

(2) Subject to any rules made by the judges under subsection (1) and subject to this and any other Act, the rules respecting practice and procedure in the Supreme Court of the Northwest Territories in force immediately before April 1, 1999 shall be followed, with such modifications as the circumstances require, in all causes and matters in the Nunavut Court of Justice. S.Nu. 2011,c.26,s.2.

Rules of Court of Appeal

60. (1) The Chief Justice of the Court of Appeal may, with the approval of the judges of the Court of Appeal, make rules regulating the practice and procedure on appeals under this Act or any other enactment or law.

Transitional rules of procedure

(2) Subject to any rules made by the judges under subsection (1) and subject to this and any other Act, the rules respecting practice and procedure in the Court of Appeal of the Northwest Territories in force immediately before April 1, 1999 shall be followed, with such modifications as the circumstances require, in all causes and matters in the Court of Appeal. S.Nu. 2011,c.26,s.3.

CLERK OF THE NUNAVUT COURT OF JUSTICE

Clerk of the Nunavut Court of Justice

61. (1) The Commissioner shall appoint a Clerk of the Nunavut Court of Justice.

Clerk of Youth Court, youth justice court

(2) The Clerk is *ex officio* Clerk of the Youth Court for the purposes of the *Young Offenders Act* and of the youth justice court for the purposes of the *Youth Criminal Justice Act* (Canada).

Deputy Registrar

(3) The Clerk is *ex officio* a Deputy Registrar of the Court of Appeal.
S.Nu. 2003,c.4,s.16.

Duties

62. (1) The Clerk shall attend at his or her office and keep it open between the hours of 9:30 a.m. and 12 noon, and 1 p.m. and 4 p.m. on all days except Saturdays, holidays and days on which the Clerk, and other officers employed in the public service, are on mandatory unpaid leave.

Duties of Clerk

(2) On application of any person, personally or by solicitor or agent, the Clerk shall

- (a) receive all complaints and other papers required to be filed in the Nunavut Court of Justice;
- (b) issue all statements of claim, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of all causes and matters before the Nunavut Court of Justice; and
- (c) tax costs with respect to causes and matters in the Nunavut Court of Justice, enter judgments of the Nunavut Court of Justice and record all judgments pronounced, given or made by the Nunavut Court of Justice.

Record-keeping

(3) The Clerk shall

- (a) keep an account of all fines, fees and moneys payable or paid to the Clerk or into the Nunavut Court of Justice and enter all such amounts in proper books;
- (b) enter in those books, regularly and under separate headings, all the proceedings taken in any action, all money received and paid out and the persons to whom and by whom the same have been paid; and
- (c) ensure those books are accessible to the public during business hours.

Attendance at trial

(4) The Clerk shall attend all trials before a judge unless his or her attendance is dispensed with by the judge.

Appointment in absence of Clerk

63. In the absence of the Clerk, a judge may appoint a suitable person to perform the duties specified in section 62.

Powers of judge

64. A judge may exercise and perform the powers, duties and functions of the Clerk.

Ownership of books, etc.

65. (1) All books, accounts, records, papers, writs, processes, documents and moneys and other matters and things in the possession or under the control of the Clerk by virtue of or relating to his or her office as Clerk are the property of the Government of Nunavut.

Transfer to successor

(2) The person in possession or control of the things referred to in subsection (1) shall transfer possession of them to the successor in office of the Clerk, or to the person that a judge may appoint to receive them, immediately on the resignation, removal from office or death of the Clerk.

Prohibition against practising as barrister and solicitor

66. The Clerk, while holding office, shall not practise as a barrister and solicitor.

SHERIFF

Appointment

67. (1) The Commissioner shall appoint a Sheriff for Nunavut.

General duties

(2) The Sheriff shall discharge all the duties connected with the office of Sheriff and such other duties assigned to the Sheriff, or that relate to the office of Sheriff, by law.

Hours of business

68. (1) The Sheriff shall keep his or her office open on the same days and during the same hours as required for the office of the Clerk.

Fee book

(2) The Sheriff shall keep a daily record of all fees and emoluments received by the Sheriff by virtue of his or her office showing separately the fees received for each service performed and such further facts and information as the Nunavut Court of Justice may require.

Inspection of records

(3) The Sheriff shall keep in his or her office, open to the inspection of any person, the following books:

- (a) process books, in which shall be entered a memorandum of
 - (i) every process received by the Sheriff, other than writs of execution or writs in the nature of writs of execution,
 - (ii) the court out of which the process was issued,
 - (iii) the date of receipt of the process,
 - (iv) the nature of the process,
 - (v) the names of the parties to the process,
 - (vi) the barrister, solicitor or other person at whose request the process was issued,
 - (vii) the date of the return of the process, and

- (viii) the nature of the return made to it or what was done in connection with it;
- (b) execution books for goods and lands respectively, in which shall be entered a memorandum of
 - (i) every writ of execution or writ in the nature of a writ of execution,
 - (ii) the court out of which the writ was issued,
 - (iii) the names of the parties to the writ,
 - (iv) the barrister, solicitor or other person at whose request the writ was issued,
 - (v) the date of return of the writ, and
 - (vi) the nature of the return made to it or what was done in connection with it;
- (c) a cash book, in which shall be entered
 - (i) all cash, received or paid out by the Sheriff in his or her official capacity or in connection with his or her office for any service for fees, poundage, service of process and papers, attendance at court, or moneys levied under execution or under writs in the nature of writs of executions or otherwise,
 - (ii) the date of receipt or payment, and
 - (iii) the cause, matter or service in which or on account of which the cash was received or paid out.

Transitional

(4) Any writ of execution, writ of attachment, garnishee proceedings, proceedings in the nature of equitable execution or other process to enforce a judgment in force in the Northwest Territories immediately before April 1, 1999 is deemed, for the purposes of its enforcement in Nunavut, to have been provided under the laws of Nunavut, with such modifications as the circumstances require, and is in force subject to its original terms and conditions.

Ownership of books, etc.

69. (1) All books, accounts, records, papers, writs, warrants, processes, moneys and other matters and things in the possession or under the control of the Sheriff by virtue of or relating to his or her office as Sheriff are the property of the Government of Nunavut.

Transfer to successor

(2) The person in possession or control of the things referred to in subsection (1) shall transfer possession of them to the successor in office of the Sheriff, or to the person that a judge may appoint to receive them, immediately on the resignation, removal from office or death of the Sheriff.

Unauthorized holding of books and other things

70. Except as authorized by this Act, no person shall take, have in possession or hold any books, accounts, records, papers, writs, warrants, processes, moneys or other matters

or things referred to in section 69 and any person having or holding any such things shall, without delay, on demand deliver them over to the person entitled to them and every person who neglects or refuses so to do is guilty of an offence punishable on summary conviction.

Sale of land after Sheriff out of office

71. Where the Sheriff has made a sale of land but ceases to hold office or becomes disabled before transferring the land to the purchaser, the person who is lawfully executing the duties of the Sheriff may complete the transfer of the land.

Execution against land after Sheriff out of office

72. Where the Sheriff ceases to hold office or becomes disabled during the currency of a writ of execution against land and before the sale of those lands, the person who is lawfully executing the duties of the Sheriff may execute the writ and sell and transfer the land.

Prohibition against purchase

73. (1) No person shall, directly or indirectly, purchase any goods or chattels, lands or tenements exposed by him or her to sale under execution.

Application

(2) This section does not apply to an execution creditor.

Damages for wilful misconduct

74. Where a person entrusted with the execution of any writ, warrant, process, mesne or final, wilfully misconducts himself or herself in the execution of the writ, warrant or process or wilfully makes any false return to the writ, warrant or process, he or she is answerable in damages to any party aggrieved by that misconduct or false return.

Duty of officer or clerk of Sheriff

75. (1) The officer or clerk of the Sheriff entrusted with the custody of any writ or process or of any book, paper or document belonging to the Sheriff or the office of the Sheriff shall on demand made to him or her by the Sheriff restore and return the writ, process, book, paper or document to the custody of the Sheriff.

Neglect or refusal to perform duty

(2) In the case of any neglect or refusal to return or restore the writ, process, book, paper or document referred to in subsection (1), the person neglecting or refusing may be required by an order of the Nunavut Court of Justice to return and restore the writ, process, book, paper or document to the Sheriff and, if he or she disobeys the order, may be further proceeded against by attachment as in other cases of disobedience to orders of the Nunavut Court of Justice.

Recovery of possession of writs, warrants, processes

76. (1) Where an officer of the Sheriff has in his or her possession, custody or control any writ of summons, *fieri facias* or any bench warrant or process and on demand made

by the Sheriff from whom it was received, his or her successor in office or any other party entitled to its possession, neglects or refuses to deliver it up, the Sheriff, his or her successor in office or the party entitled to its possession may proceed by summons and order before any judge to compel its production.

Enforcement or discharge of order

(2) The order referred to in subsection (1) may be enforced in the same manner as like orders for the return of writs against sheriffs, with or without costs, or discharged with costs against the party applying, in the discretion of the judge.

Prohibition against practising as barrister and solicitor

77. No Sheriff, while holding office, shall practise as a barrister and solicitor.

COURT SECURITY

Powers of Sheriff

77.1. (1) The Sheriff may do one or more of the following:

- (a) screen a person before the person enters a court facility or at any time while the person is inside the court facility;
- (b) for the purposes of paragraph (a), require a person inside a court facility to move to another place inside the court facility in order to be screened;
- (c) seize any weapon in the possession of a person who is in, or is attempting to enter, a court facility if the person is not authorized pursuant to section 77.5 to have the weapon;
- (d) evict a person from a restricted zone if the person is not authorized to enter that restricted zone.

Sheriff may refuse entry

(2) The Sheriff may refuse entry to, or evict a person from, a court facility if one or more of the following circumstances exist:

- (a) the person refuses to be screened;
- (b) the person refuses to comply with a direction of the Sheriff made pursuant to paragraph (1)(b);
- (c) the person is in possession of a weapon and refuses to comply with the Sheriff's request to relinquish the weapon to the Sheriff;
- (d) the Sheriff has reasonable grounds to believe the person:
 - (i) is a threat to the safety of the court facility or to the safety of any of its occupants;
 - (ii) may disrupt court proceedings; or
 - (iii) may disrupt operations within the court facility.

S.Nu. 2012,c.14,s.3.

Designated restricted zones

77.2. The following parts of a court facility are designated as restricted zones:

- (a) judges' private chambers, offices, passageways, storage areas and any other part used primarily by judges;
 - (b) offices, storage areas and any other part used primarily by:
 - (i) a member of the judicial staff or court services staff, or
 - (ii) the Sheriff;
 - (c) prisoner detention areas;
 - (d) jury rooms;
 - (e) interview rooms;
 - (f) an area being used for the purposes of paragraphs (a) to (e) on a temporary basis;
 - (g) a prescribed area.
- S.Nu. 2012,c.14,s.3.

Persons authorized to enter restricted zones

77.3. (1) No person may enter a restricted zone unless that person is authorized to do so by this section.

Authorized persons

(2) The following persons are authorized to enter a restricted zone:

- (a) a judge or justice of the peace;
- (b) the Sheriff or a deputy sheriff;
- (c) a member of the judicial staff or court services staff;
- (d) a person admitted to a restricted zone by a person described in paragraphs (a), (b) or (c);
- (e) a prescribed person or prescribed class of persons.

Additional persons authorized to enter interview rooms

(3) The following additional persons are authorized to enter interview rooms:

- (a) active members of the Law Society of Nunavut as defined in the *Legal Profession Act*;
 - (b) students-at-law of the Law Society of Nunavut as defined in the *Legal Profession Act*;
 - (c) persons bearing a restricted appearance certificate issued by the Law Society of Nunavut;
 - (d) a person admitted to an interview room by a person described in paragraphs (a), (b) or (c).
- S.Nu. 2012,c.14,s.3.

Screening

77.4. (1) The Sheriff may screen a person for weapons by doing one or more of the following:

- (a) requiring the person to identify himself or herself;
- (b) holding a metal detector on or near the person's body;
- (c) conducting any other prescribed act.

Additional screening

(2) The Sheriff may require a person to empty the contents of his or her pockets or to empty the contents of anything carried by or accompanying the person and examine the contents where the Sheriff has reasonable grounds to believe the person:

- (a) is a threat to the safety of the court facility or to the safety of any of its occupants;
- (b) may disrupt court proceedings; or
- (c) may disrupt operations within the court facility.

Persons not screened

(3) Subject to subsection (4), the Sheriff may not screen:

- (a) elders;
- (b) active members of the Law Society of Nunavut as defined in the *Legal Profession Act*;
- (c) students-at-law of the Law Society of Nunavut as defined in the *Legal Profession Act*;
- (d) persons bearing a restricted appearance certificate issued by the Law Society of Nunavut;
- (e) peace officers;
- (f) jurors;
- (g) members of the judicial staff or court services staff;
- (h) persons or classes of persons designated by the senior judge of the Nunavut Court of Justice; or
- (i) prescribed persons or prescribed class of persons.

Persons may be screened where reasonable belief exists

(4) A person listed in subsection (3) may be screened where the Sheriff has reasonable grounds to believe the person:

- (a) is a threat to the safety of the court facility or to the safety of any of its occupants;
- (b) may disrupt court proceedings; or
- (c) may disrupt operations within the court facility.

Judges not screened

(5) The Sheriff may not screen judges or justices of the peace.

S.Nu. 2012,c.14,s.3.

Weapons prohibited in court facilities

77.5. No person shall possess a weapon in a court facility, except:

- (a) the Sheriff or a deputy sheriff;
- (b) a peace officer;
- (c) an employee who is responsible for the examination, inventory, storage, maintenance or transportation of court exhibits and evidence; or
- (d) a prescribed person or a prescribed class of persons.

S.Nu. 2012,c.14,s.3.

Sheriff may use reasonable force

77.6. The Sheriff may use reasonable force:

- (a) in refusing a person entry to a court facility or a restricted zone;
- (b) in evicting a person from a court facility or a restricted zone; or
- (c) in seizing a weapon from a person who is in, or is attempting to enter, a court facility.

S.Nu. 2012,c.14,s.3.

Judicial powers unaffected

77.7. (1) Sections 77.1 to 77.6 do not affect any right of a judge or justice of the peace to control court proceedings.

Judicial access unaffected

(2) Sections 77.1 to 77.6 do not affect any right of a judge or justice of the peace to have unimpeded access to any part of a court facility. S.Nu. 2012,c.14,s.3.

Offences and penalties

77.8. (1) No person shall fail to comply with sections 77.1 to 77.6 or regulations made under section 77.9.

Penalties

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction:

- (a) for a first offence, to a fine not exceeding \$5,000, to imprisonment for a term not exceeding six months or to both; or
- (b) for a second or subsequent offence, to a fine not exceeding \$10,000, to imprisonment for a term not exceeding one year or to both.

S.Nu. 2012,c.14,s.3.

Regulations

77.9. The Commissioner in Executive Council may make regulations:

- (a) designating part of a building or parts of a building as a court facility;

- (b) for the purposes of paragraph 77.2(f), designating part of a court facility as a restricted zone;
 - (c) prescribing persons or classes of persons who are authorized to enter a restricted zone and prescribing different restricted zones that different persons or different classes of persons may enter;
 - (d) prescribing other ways in which the Sheriff may screen a person;
 - (e) prescribing persons or classes of persons permitted to possess weapons in court facilities.
- S.Nu. 2012,c.14,s.3.

OFFICERS OF THE NUNAVUT COURT OF JUSTICE

Appointment of officers

78. The Commissioner shall appoint any officers, clerks and employees necessary for the operation of the Nunavut Court of Justice.

OFFICERS OF THE COURT OF APPEAL

Appointment of Registrar and other officers

79. (1) The Commissioner shall appoint the Registrar of the Court of Appeal and any other officers, clerks and employees necessary for the operation of the Court of Appeal.

Deputy Registrar

(2) The Clerk of the Nunavut Court of Justice, in his or her capacity as a Deputy Registrar of the Court of Appeal, may exercise and perform the powers and functions that may be determined from time to time by the Chief Justice of the Court of Appeal.

OATHS OF OFFICERS

Oath

80. (1) Every officer appointed under this Act shall, before entering on the duties of his or her office, take and subscribe the following oath:

I, of, solemnly swear that I will according to the best of my skill, learning, ability and judgment, well and faithfully execute and fulfill the duties of the office of without favour or affection, prejudice or partiality to any person. So help me God.

Administration of oath

(2) The oath referred to in subsection (1) shall be administered by a judge or a justice of the peace and shall be filed in the office of the Deputy Minister of the Department of Justice.

COSTS OF COMMISSIONER

Costs of Commissioner

81. (1) In any proceeding to which the Commissioner or the Government of Nunavut is a party, costs adjudged to the Commissioner or to the Government of Nunavut shall not be disallowed or reduced on taxation merely because the solicitor or the counsel who earned the costs, or in respect of whose services the costs are charged,

- (a) was a salaried officer of the Government of Nunavut performing those services in the discharge of his or her duty and remunerated for that by his or her salary; or
- (b) was for that or any other reason not entitled to recover any costs from the Commissioner or the Government of Nunavut in respect of the services rendered.

Recovery from CRF

(2) The costs recovered by or on behalf of the Commissioner or the Government of Nunavut in any case referred to in subsection (1) shall be paid into the Consolidated Revenue Fund.

Regulations

82. The Commissioner, on the recommendation of the Minister, may make regulations respecting reimbursement for expenses of interpreters and witnesses and fees payable in respect of civil and criminal matters.

PROCEDURE FOR APPEALS FROM TRIBUNALS

Definition

83. In sections 84 to 91, "tribunal" means a person or body, including a justice of the peace, whose decision may, pursuant to an enactment, be appealed to the Nunavut Court of Justice in accordance with the procedures for appeals from tribunals set out in sections 84 to 91.

Notice of appeal

84. (1) An appeal from a tribunal to the Nunavut Court of Justice shall be commenced by notice of appeal without any other formal proceedings being required.

Motion for new trial and appeal

(2) A motion for a new trial in a civil case and a motion in the nature of an appeal may be brought, in the alternative, by the same notice of appeal.

Full or partial appeal

(3) On a motion for a new trial in a civil case, an appeal or a motion in the nature of an appeal, the applicant may, by the notice of appeal, appeal from the whole or any part of the judgment, order or decision.

Statement of full or partial appeal

(4) A notice of appeal must state whether the appeal is in respect of the whole or only part of the judgment, order or decision and, if it is in respect of only a part, the notice of appeal must specify the part being appealed.

Grounds

(5) A notice of appeal must state the grounds on which the appeal is based.

Amendment of notice of appeal

(6) A notice of appeal may be amended at any time by leave of a judge on terms and conditions that the judge considers just.

Notice of appeal

85. (1) No security for costs is required on an appeal except where, due to special circumstances, a judge orders security for costs.

Security for costs

(2) No order for security for costs shall be made unless the application for that purpose is made within 15 days after the service of the notice of appeal.

Filing notice of appeal

86. (1) A notice of appeal shall be filed in the Nunavut Court of Justice and shall be served on all persons referred to in subsection (2) within 30 days after the judgment, order or decision appealed against was signed, entered and served.

Service of notice of appeal

(2) The notice of appeal shall be served on all parties directly affected by the appeal and, if a judge so directs, on all or any of the parties to the action or other proceeding or on any person who is not a party to the action or other proceeding.

Powers of judge

(3) A judge may postpone or adjourn the hearing of an appeal on terms that the judge considers just, and may give such judgment or make such order as might have been given or made if the persons served with the notice of appeal had been original parties to the action or other proceeding.

Extension of time for filing and serving

(4) A judge may, either before or after the expiration of the period referred to in subsection (1), extend the time for filing and serving the notice of appeal.

Effect of appeal on execution or proceedings

87. (1) Except as ordered or directed by the tribunal from whom an appeal is taken or by a judge, an appeal does not operate as a stay of execution of any proceedings under the decision appealed from, and no intermediate act or proceeding is invalidated by reason only of the appeal.

Security for costs

(2) A judge who makes an order or direction referred to in subsection (1) may require such security for costs that he or she considers just.

Questions of fact

88. Where any question of fact is involved in an appeal, evidence bearing on the question that was taken before the justice of the peace or tribunal shall, subject to any order of the judge, be brought before the judge,

- (a) in the case of evidence taken by the affidavit, by the production of the affidavit; and
- (b) in the case of evidence taken orally, by the production of
 - (i) any notes of the evidence, as prepared by the stenographer who took down the evidence at the proceeding from which the appeal is being taken, and
 - (ii) other material that the judge considers proper.

Appeal book

89. (1) A person making an appeal shall

- (a) serve the respondent or the solicitor of the respondent with a copy of the appeal book in respect of the appeal; and
- (b) file with the Clerk of the Nunavut Court of Justice two copies of the appeal book within 45 days after the filing of the notice of appeal, or within such other time as a judge directs.

Approval of appeal book by opposite party

(2) The appeal book shall be clearly and legibly typed or printed and shall be approved by the opposite party.

Contents of appeal book fixed by judge

(3) Where the parties are unable to agree on the contents of the appeal book, a judge may, by order, fix the contents.

Hearing of appeal

90. The hearing of an appeal shall be held at the time that is fixed by a judge, which shall not be less than 10 days after the date on which the appeal book in respect of the appeal is filed unless the parties to the appeal agree upon an earlier time.

Fees

91. The parties to an appeal shall pay to the Clerk of the Nunavut Court of Justice the fees that may be fixed under this Act.

TRANSITIONAL INTERPRETATION MATTERS

References to certain courts

92. (1) Where in any other enactment there is a reference to the "Supreme Court", the "Supreme Court of the Northwest Territories", the "Territorial Court" or the "Territorial Court of the Northwest Territories", the reference is deemed to be a reference to the "Nunavut Court of Justice", unless the context otherwise requires.

References to "territorial judge"

(2) Where in any other enactment there is a reference to a "territorial judge", the reference is deemed to be a reference to a "judge", unless the context otherwise requires.