

CONSOLIDATION OF EXEMPTIONS ACT
R.S.N.W.T. 1988,c.E-9

(Current to: February 10, 2013)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

S.N.W.T. 1995,c.11
S.N.W.T. 1998,c.17

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2006,c.3
In force June 1, 2006: SI-001-2006
S.Nu. 2008,c.19,s.1
s.1 in force September 18, 2008
S.Nu. 2012,c.16,s.59
s.59 NIF

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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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EXEMPTIONS ACT

Definitions

1. In this Act,

"creditor" means a party or a person who is entitled to receive payment or to enforce a judgment or order; (*créancier*)

"debtor" means a party or a person required to make payment under a judgment or order or against whom a judgment or order may be enforced; (*débiteur*)

"spouse" has the meaning assigned to it by section 1 of the *Family Law Act*; (*conjoint*)

"support" includes alimony and maintenance; (*aliments*)

"writ of execution" includes a writ of *fiery facias* and every subsequent writ issued under the *Judicature Act* for giving effect to a writ of *fiery facias*. (*bref d'exécution*)
S.N.W.T. 1998,c.17,s.10(2).

Note: On a day to be fixed by order of the Commissioner, the definition "support" in section 1 is repealed and the following is substituted:

"support" has the meaning assigned to it in section 1 of the *Family Support Orders Enforcement Act*; (*aliments*).

See S.Nu. 2012,c.16,s.59(2).

Exemptions from seizure

2. (1) The following real and personal property is exempt from seizure under a writ of execution:

- (a) household furnishings, utensils, equipment and appliances needed by the debtor and the family of the debtor to maintain a functional household, but not including household furnishings, utensils, equipment and appliances purchased in order to defeat the claim of a creditor;
- (b) necessary and ordinary clothing of the debtor and the family of the debtor;
- (c) food, fuel and other necessities of life required by the debtor and the family of the debtor for the next 12 months;
- (d) tools, instruments and other chattels ordinarily used by the debtor in his or her business, profession or calling;
- (e) tools, instruments, motor vehicles, all-terrain vehicles, snowmobiles, watercraft and other chattels ordinarily used and needed by the debtor in hunting or fishing for food;

- (f) an interest in a house, condominium or equivalent facility that is used by the debtor as his or her principal residence, to the extent of the interest, not exceeding the prescribed amount;
- (g) aids and devices that are reasonably necessary for the health or mobility of the debtor or a member of the family of the debtor.

Exception

(2) The following money, including any property or income acquired through the investment of such money, is exempt from seizure under a writ of execution and attachment by garnishment:

- (a) any money paid or payable to a debtor pursuant to a legal entitlement to compensation for any mental or physical harm suffered by the debtor;
- (b) any money paid or payable to an eligible Common Experience Payment recipient or eligible Independent Assessment Process claimant under the Agreement in Principle, dated November 20, 2005, between the Government of Canada, the Assembly of First Nations, the General Synod of the Anglican Church of Canada, the Presbyterian Church in Canada, the United Church of Canada, Roman Catholic Entities, and Plaintiffs as represented by the National Consortium, Merchant Law Group, and other legal counsel.

S.N.W.T. 1995,c.11,s.20; S.Nu. 2006,c.3,s.2.

Application

3. Section 2 does not apply

- (a) where the debtor has absconded or is about to abscond from Nunavut leaving no spouse or family in Nunavut; or
- (b) to a writ of execution issued on
 - (i) a judgment or order for the payment of support, or
 - (ii) a judgment on a domestic contract, as defined in section 2 of the *Family Law Act*.

S.N.W.T. 1998,c.17,s.10(3); S.Nu. 2006,c.3,s.6(a).

4. Repealed, S.Nu. 2006,c.3,s.3.

5. Repealed, S.Nu. 2006,c.3,s.3.

Where no exemption

6. (1) Subject to subsection (2), this Act does not exempt any article including fuel from seizure to satisfy a debt contracted for that article.

Exception

(2) Subsection (1) does not apply to any of the property or chattels referred to in paragraphs 2(1)(a), (b), (c) or (g). S.Nu. 2006,c.3,s.4.

Exemption after death of debtor

7. (1) The chattels of a debtor that are exempt from seizure are exempt from the claims of creditors of the debtor after the death of the debtor.

Entitlement of surviving spouse and family

(2) The surviving spouse of a debtor is entitled to retain the chattels referred to in subsection (1) for the benefit of the surviving spouse and the family of the debtor or, if there is no surviving spouse, the family is entitled to retain the chattels for its benefit.

Right of selection

8. The debtor, the surviving spouse or family of the debtor or, in the case of a minor, the persons who have lawful custody of the minor, may select out of any larger number the chattels exempt from seizure. S.N.W.T. 1998,c.17,s.10(4).

Exemption from garnishment

9. (1) Where wages or salary is owed to a debtor, the debtor's wages or salary is exempt from attachment by garnishment to the extent of the amount calculated in accordance with the regulations.

(2) **Repealed, S.Nu. 2006,c.3,s.5(1).**

Exception

(3) This section does not apply

- (a) if the debt was for board or lodging;
- (b) if the debtor has absconded or is about to abscond from Nunavut, leaving no spouse or dependant in Nunavut; or
- (c) to a garnishee summons issued on a judgment or order for the payment of support.

Reduction

(4) The Nunavut Court of Justice may, on application, reduce an exemption under this section where the spouse or a dependant of a debtor is receiving remuneration whether or not the spouse or dependant is joined as a debtor.

Statutory deductions

(5) The wages or salary of an employee is exempt from attachment by garnishment to the extent of the amounts required to be deducted by the employer of the debtor by or under an Act of Canada or an Act of Nunavut. S.N.W.T. 1998,c.17,s.10(5); S.Nu. 2006,c.3,s.5,6(b),(c).

Note: On a day to be fixed by order of the Commissioner, subsection 9(3) is amended by repealing paragraph (c) and substituting the following:

- (c) to a payment order or garnishee summons issued with respect to a judgment or order for the payment of support.

See S.Nu. 2012,c.16,s.59(3).

Special circumstances

10. The Nunavut Court of Justice may, on application, increase an exemption under this Act to take into account the special circumstances of the debtor or the family of the debtor. S.Nu. 2006,c.3,s.7.

Regulations

11. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) prescribing any matter or thing that by this Act may or is to be prescribed;
 - (b) respecting the calculation of wages or salary exempt from attachment by garnishment; and
 - (c) respecting any other matter the Commissioner, on the recommendation of the Minister, considers necessary to carry out the purposes and provisions of this Act.
- S.Nu. 2006,c.3,s.7.