

## Chapter 1

### TECHNICAL STANDARDS AND SAFETY ACT

(Assented to March 6, 2002)

#### Purpose

1. The purpose of this Act is to enhance public safety in Nunavut by providing for the efficient and flexible administration of codes and technical standards for electrical installations, boilers and pressure vessels, elevating devices, and gas installations and distribution systems, and for registration of electrical workers, operating engineers, welders, elevating device installers, and gas installers as referred to in this Act and regulations.

#### Government bound by Act

2. This Act binds the government of Nunavut, its boards, agencies and corporations.

#### Conflict with other Acts

3. This Act and the regulations made under it prevail over any municipal by-law.

### DEFINITIONS

#### Definitions

4. In this Act,

"chief inspector" means a person appointed as a chief inspector under this Act or a predecessor Act; (*inspecteur en chef*)

"dwelling" means any premises or part of a premises occupied ordinarily as living accommodation; (*logement*)

"inspector" means a person appointed as an inspector under this Act or a predecessor Act; (*inspecteur*)

"permit" means any form of authorization granted under this Act and includes;

- (a) with respect to a person, a certificate, licence or registration; and
- (b) with respect to a thing, an approval, certificate, licence or registration; (*permis*)

"person" means an individual, an association, a partnership, a corporation or a municipality; (*personne*)

"predecessor Act" means any of the following:

- (a) *Electrical Protection Act*;
- (b) *Boilers and Pressure Vessels Act*;
- (c) *Gas Protection Act*; (*loi précédente*)

"seal" means to mark, tag, seal or label, and its noun has a corresponding meaning.  
(*apposer les scellés*)

## APPOINTMENT AND POWERS

### Appointment

**5.** (1) The Minister may appoint chief inspectors and inspectors.

(2) An appointment is subject to the restrictions, limitations and conditions set out in it.

### Document of appointment

**6.** Chief inspectors and inspectors shall be issued with a document establishing their appointment which they shall produce on request.

### Powers of chief inspector

**7.** (1) A chief inspector has general supervisory and administrative responsibility for all or any part of this Act and the regulations according to the terms of his or her appointment.

(2) Unless otherwise stated in his or her appointment, a chief inspector:

- (a) may supervise and direct inspectors and other persons responsible for administering or enforcing this Act or the regulations made under it; and
- (b) is an inspector and may exercise any of the powers and perform any of the duties of an inspector.

### Delegation

**8.** A chief inspector may delegate in writing any of his or her powers or duties to any person subject to the restrictions, limitations and conditions set out in the delegation.

### Scope of authority

**9.** (1) Subject to this Act and the regulations, the chief inspector may:

- (a) approve notices, markings and other forms of identification that are prescribed by the regulations for use in conjunction with equipment or other things;
- (b) approve the granting, term, renewal, posting, transfer and reinstatement of permits;
- (c) decide actions that may be taken or not taken in connection with an accident or incident in order to preserve evidence;
- (d) supervise investigation of an accident or incident involving persons or things to which this Act or the regulations apply;
- (e) provide for service of any notice or safety order required to be given or served under this Act or the regulations;
- (f) evaluate the qualifications of persons to whom this Act or the regulations apply;

- (g) assign identifying symbols to welding operators;
- (h) approve inspections to be carried out by an insurer who meets the requirements prescribed by the regulations;
- (i) approve reports made by insurers;
- (j) evaluate and approve or reject proposed safety procedures filed by distributors under the regulations;
- (k) develop and approve methods of determining the capacity, content and rating of equipment and other things;
- (l) approve the form of labels required or authorized to be affixed to things covered by this Act and regulations;
- (m) approve the labels of other jurisdictions that may be adopted for use under this Act and the regulations;
- (n) approve organizations to test any thing for which standards or specifications are established under this Act.

(2) A chief inspector's decision or action under subsection (1) may be general or particular in its application.

(3) The chief inspector may, in writing, approve variances from the authorized codes, standards, guidelines or procedures:

- (a) if, in the opinion of the chief inspector, the variance would not detrimentally affect the safe use of the thing to which the regulation applies or the health or safety of any person;
- (b) within the limits, if any, that are prescribed by the regulations; and
- (c) subject to such conditions as may be specified by the chief inspector.

(4) A chief inspector may:

- (a) authorize the limits of operation and use of things that are found to be defective or that do not conform to the terms of their permits after fabrication, alteration or installation;
- (b) approve the operation and use of such things within such limits as are prescribed by the regulations, or if there are no such limits, as the chief inspector considers safe.

#### Retention of information

**10.** (1) A chief inspector may establish the information, records, documents, plans, log books, drawings, instructions, specifications or any other thing to be kept or provided with respect to any matter under this Act or the regulations.

(2) A chief inspector may give directions for reports, including what information is to be reported, by whom and to whom, and the time, manner and frequency of reporting.

### Qualifications and training

- 11.** (1) A chief inspector may, if the regulations do not provide for these matters:
- (a) evaluate the qualifications, training and experience that are required for the granting of a permit to a person to whom this Act or the regulations apply; and
  - (b) establish that person's duties and responsibilities.

(2) A chief inspector may recognize training and experience of an applicant for a permit if the chief inspector is of the opinion that such training or experience is equivalent to the requirements of this Act or the regulations.

(3) A chief inspector may establish conditions for the re-examination of applicants who have taken examinations that may be prescribed.

## PERMITS

### Requirement for permit

**12.** (1) Except as provided in the regulations, a person is required to obtain a permit in accordance with this Act and the regulations under it before operating, installing or otherwise dealing with any thing to which the regulations apply.

(2) Permissions, authorizations, variances, exemptions, requirements, designations and any other matters provided for in this Act or the regulations are public information and shall be disclosed by a chief inspector to the public upon request as prescribed by the regulations.

### Permits for persons

**13.** (1) An applicant who applies to an inspector for a permit to carry out an activity referred to in the regulations is entitled to the permit if all the requirements for it are met.

(2) An inspector may refuse to grant a permit to an applicant who does not meet the requirements for it.

(3) An applicant who applies to an inspector for a permit required for a thing is entitled to the permit if all the requirements for it are met.

(4) An inspector may refuse to grant a permit for a thing if the applicant or thing does not meet the requirements for it.

(5) A permit is subject to the restrictions, limitations and conditions that are prescribed by the regulations and to the restrictions, limitations and conditions, if any, imposed on it by an inspector or chief inspector.

Grounds for refusals or suspensions

**14.** (1) An inspector may refuse to grant or may suspend, revoke or refuse to renew a permit on any reasonable grounds that cause him or her to believe that the applicant or permit holder:

- (a) will not carry out the activities authorized by the permit in accordance with the law;
- (b) will not carry out the activities authorized by the permit safely;
- (c) has falsified information or intentionally misled an inspector;
- (d) is not competent or lacks necessary skill;
- (e) has failed to comply with the Act, the regulations, the decision or safety order of an inspector or chief inspector, or a restriction, limitation or condition of a permit;
- (f) has obtained the permit through misrepresentation or fraud; or
- (g) has allowed an unauthorized person to carry out the activities authorized by the permit.

(2) A chief inspector shall issue a written confirmation including reasons with respect to:

- (a) a decision to refuse a permit;
- (b) a decision to revoke, suspend, or refuse to renew a permit;
- (c) the restrictions or conditions to which a permit is subject;
- (d) the filing or non-filing of any document or material required or permitted to be filed with the chief inspector; or
- (e) any other matter that may be prescribed by the regulations or set out in an inspector's decision.

(3) A confirmation is proof, in the absence of evidence to the contrary, of the facts stated in it, without any proof of appointment or signature.

(4) A confirmation shall be sent to the permit holder or applicant.

## INSPECTIONS

Inspection without warrant

**15.** (1) An inspector may at any reasonable time, without a warrant, enter any lands or premises where the inspector has reason to believe, in good faith, any of the things, parts of things or classes of things to which this Act or the regulations apply are used, operated, installed, made, manufactured, repaired, renovated or offered for sale and carry out an inspection for the purpose of determining in the public interest whether:

- (a) this Act, the regulations or an inspector's order is being complied with; or
- (b) a hazardous condition exists.

(2) Notwithstanding subsection (1), an inspector shall not enter a place or part of a place that is used as a dwelling without the occupier's consent.

(3) An inspector who wishes to enter a place or part of a place that is used as a dwelling shall inform the occupier that he or she may refuse his or her consent.

(4) If the occupier refuses his or her consent, the inspector shall not enter the dwelling unless he or she first obtains a warrant.

(5) An inspector may be accompanied by any person or persons who may be of assistance to him or her in carrying out the inspection.

#### Warrant

**16.** (1) A court or justice of the peace may issue a warrant authorizing an inspector and such other persons as the court or justice of the peace may specify in the warrant to enter a place, including a dwelling, for the purposes of inspection under this Act, subject to any conditions the court or justice of the peace may specify in the warrant, where the court or justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that

- (a) any of the things, parts of things or classes of things to which this Act or the regulations apply are being used, operated, installed, made, manufactured, repaired, renovated or offered for sale on the premises; or
- (b) a hazardous condition exists.

(2) An application under subsection (1) may be made without notice to the permit holder, occupier, owner, or any affected person.

(3) The inspector may use such force as is reasonably necessary to execute the warrant and may call on police officers to assist in its execution.

#### Powers of inspector

**17.** (1) In carrying out an inspection, an inspector may:

- (a) exercise such powers and act in such manner as is set out in this Act and the regulations;
- (b) require that a record or thing be produced for inspection; and
- (c) on notice in writing to the appropriate person, immediately remove any thing for the purpose of making any examination, test or inquiry that may be necessary to determine whether this Act or the regulations are being complied with.

(2) An inspector who requires that a record or other thing be produced for inspection must do so in writing and state the nature of the record or thing required.

(3) If an inspector requires that a record or other thing be produced for inspection, the person who has custody of it shall produce it and, in the case of a record, shall provide any assistance that is reasonably necessary to interpret it or to produce it in readable form.

- (4) A record or other thing that has been removed for review and copying shall:
- (a) be made available to the person from whom it was removed, on request, at a time and place convenient for both the person and the inspector; and
  - (b) be returned to the person within a reasonable time.

(5) A copy of a record that purports to be certified by an inspector as being a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value.

(6) An inspector who removes a record or thing shall provide a receipt to the appropriate person.

(7) An inspector conducting an inspection may seal any thing where the thing is capable of being sealed.

#### Entry and inspection

**18.** Every person shall:

- (a) furnish all necessary means in his or her power to facilitate any entry, inspection, examination, test or inquiry by an inspector in the exercise of his or her powers and the carrying out of his or her duties; and
- (b) pay the fees required by the Act or the regulations for an inspection, reinspection, examination, test or inquiry.

#### Obstruction

**19.** No person shall:

- (a) hinder, obstruct or interfere with an inspector conducting an inspection;
- (b) refuse to answer questions on matters relevant to an inspection; or
- (c) provide the inspector with information on matters relevant to the inspection that the person knows to be false or misleading.

#### Liability

**20.** No action or other proceeding for damages shall be instituted against an inspector or a chief inspector for any costs or loss incurred by a person that arise out of or in conjunction with an inspection, decision, safety order, examination, test or inquiry or the production of a record or thing unless the costs or loss arise out of the negligence or wrongful act or omission of the inspector or the chief inspector.

#### Report

**21.** Following an inspection, the inspector shall make a report to the chief inspector about the inspection in the form and with the content required by the chief inspector.

### Compliance

**22.** (1) If an inspector finds that any provision of this Act or the regulations is being contravened, or that a thing is unsafe or is not being operated or used in accordance with the permit relating to it, the inspector may:

- (a) serve the person he or she believes to be the contravener or that person's supervisor or employer, or both, with a decision in writing setting out the nature of the contravention and indicating how to correct it;
- (b) specify whether the contravention must be corrected immediately or within the time limit specified in the decision; or
- (c) seal any thing to which this Act or the regulations apply where there is or may be a demonstrable threat to public safety, whether or not the thing is subject to a permit.

(2) An inspector may revoke a decision, or consent to the removal of a seal, if he or she is satisfied that a potential danger has been averted or corrected, that all provisions of this Act or the regulations are being complied with or that a thing is being operated in accordance with the permit relating to it, as the case may be.

(3) Any person who receives an inspector's decision under subsection (1) or (2) and complies with it or who has made all reasonable efforts to comply with it is not guilty of an offence in respect of the contravention or other matter that formed the basis of the decision.

### Compliance order

**23.** (1) If it appears to a chief inspector that a contravention under section 22(1) is continuing or that any person is failing to comply with any provision of this Act or the regulations, the chief inspector may apply to the Nunavut Court of Justice for an order directing compliance.

(2) In an application under subsection (1), the court may make any order that it considers just.

(3) The chief inspector may make an application under subsection (1) even if a penalty or some other sanction has been applied against the person in respect of the failure to comply and regardless of any other rights the person may have.

(4) An appeal lies to a single judge of the Court of Appeal of Nunavut within 30 days from an order made under subsection (2).

### Use of sealed things

**24.** (1) A chief inspector shall determine the operation and use of things that have been sealed by an inspector.

(2) A chief inspector shall determine the use and removal of seals.

(3) No person shall operate, use or cause or allow the operation or use of a thing in contravention of a decision issued under section 22 or where the thing has been sealed.

(4) No person shall remove a seal affixed by an inspector:

- a) without the inspector's consent; or
- b) except as provided in the regulations.

(5) Subsection (4) does not apply when the decision to affix the seal has been revoked.

#### Certificate of approval

**25.** A chief inspector may issue a certificate of approval with respect to things that have been inspected and found capable of being used or operated safely and may also cancel such a certificate.

### SAFETY ORDERS

#### Use of force

**26.** An inspector may use such force as is reasonably necessary to enter without a warrant and inspect any place where he or she has reason to believe there is an immediate threat to public safety.

#### Safety orders

**27.** (1) An inspector or chief inspector may give a safety order to any person or class of persons with respect to any matter governed by this Act that pertains to safety.

(2) The safety order may require that any thing or part of a thing, or class of things, be dealt with as set out in the order, including:

- (a) being shut down;
- (b) being used only in accordance with the order; and
- (c) not being used.

(3) The safety order may be given orally or in writing, and may be made without prior notice.

(4) A safety order that is given orally shall be provided in writing as soon as practicable in the circumstances and in no case later than seven days after the oral order is given.

(5) The safety order is effective immediately but may be suspended pending a hearing under subsection (6) with the consent of the inspector who made it.

(6) On the request of the person affected by the safety order, the chief inspector shall hold a hearing on the matter.

Chief inspector's safety order

**28.** In cases where there is or may be a demonstrable threat to public safety, a chief inspector may make a safety order with respect to the following matters if they have not otherwise been provided for in this Act or the regulations:

- (a) providing for the form and location of notices, markings or other forms of identification to be used in conjunction with equipment or other things that are prescribed in the regulations; or
- (b) providing for the authorization of the design, fabrication, processing, handling, installation, operation, access, use, repair, maintenance, inspection, location, construction, removing, alteration, service, testing, filling, replacement, blocking, dismantling, destruction, removal from service and transportation of any thing, whether new or used, or a part of a thing, and any equipment or attachment used in connection with it.

Suspension for failure to comply with safety order

**29.** (1) The chief inspector may, without prior notice or the holding of a hearing, suspend any permit granted to a person who fails to comply with a safety order.

(2) A suspended permit shall not be reinstated unless the applicant provides proof of having complied with all outstanding safety orders affecting the applicant under that permit, in addition to satisfying all other requirements for the reinstatement of the permit.

*Statutory Instruments Act* does not apply

**30.** The *Statutory Instruments Act* does not apply to safety orders issued by an inspector or chief inspector under this Act or the regulations.

Provisional suspension or refusal to renew where safety involved

**31.** (1) An inspector may, by notice to a permit holder and without a hearing, provisionally suspend or refuse to renew a permit where the carrying on of the operations under the permit is, in the inspector's opinion, an immediate threat to public safety or the safety of any person or property.

(2) The notice under subsection (1) shall state the inspector's reasons for the decision to provisionally suspend or refuse to renew the permit and inform the permit holder of the right to a hearing before the chief inspector if the holder applies for the hearing within 15 days after being served with the notice.

Requirement to provide information

**32.** If an inspector receives a complaint alleging non-compliance with a permit, the permit holder shall, on request, provide the inspector with any information respecting the circumstances of the complaint that the inspector requires.

Examination under oath

**33.** For the purpose of an inspection or an investigation under this Act, a chief inspector may, by notice in writing, require the attendance of any person at the time and

place named in the notice and may examine the person under oath regarding any matter pertaining to the inspection or investigation.

#### Notice of refusal

**34.** (1) Subject to subsection (2), if an inspector refuses to grant a permit, or decides to suspend, revoke or refuse to renew a permit, the inspector shall serve notice of the refusal or decision, together with written reasons, on the applicant or permit holder.

(2) A notice of refusal is not required:

- (a) in the case of a provisional suspension of a permit or a refusal to renew a permit under section 31;
- (b) in the case of a suspension for a failure to pay under section 53.

(3) An inspector may serve the notice of refusal personally or by registered mail addressed to the applicant or permit holder at the last address known to the inspector, by fax or by any other form of electronic transmission if there is a record that the notice has been sent.

(4) If registered mail is used, the notice shall be deemed to have been served on the seventh day after the day of mailing unless the person on whom notice is being served establishes to the inspector that the person, acting in good faith, through absence, accident, illness or other cause beyond the person's control, did not receive the notice until a later date.

(5) If a fax or other form of electronic transmission is used, the notice shall be deemed to have been served on the day after the fax or other transmission was sent unless the person on whom notice is being served establishes to the inspector that the person, acting in good faith, through absence, accident, illness or other cause beyond the person's control, did not receive the notice until a later date.

## HEARINGS

#### Right to hearing

**35.** (1) A notice of refusal shall inform the applicant or permit holder that he or she has the right to a hearing before the chief inspector if he or she requests the hearing within 15 days after being served with the notice.

(2) If the applicant or permit holder does not request a hearing, the inspector's refusal to grant a permit shall be deemed to be confirmed.

(3) If the applicant or permit holder requests a hearing, the chief inspector shall set a time for and hold the hearing after issuing a notice of hearing to the applicant or permit holder.

(4) The chief inspector to whom a request for a hearing is made may extend the time for making the request either before or after the 15-day period if he or she is satisfied that:

- (a) there are reasonable grounds for applying for the extension; and
- (b) there are apparent grounds for granting to the applicant or permit holder the relief sought at the hearing.

(5) In granting an extension, the chief inspector may give any directions he or she considers appropriate.

#### Chief inspector's hearing

**36.** (1) Any person affected by an inspector's decision, the affixing of a seal or a requirement to pay fees for an inspection, examination, test or inquiry may request at any time that a chief inspector hold a hearing into the matter.

(2) The request for a hearing is not required to be in writing but, if the chief inspector so requires, the grounds for the request shall be specified in writing before the hearing takes place.

(3) On receiving a request, the chief inspector shall hold a hearing as soon as is reasonably possible, but such a request does not affect the operation of the decision objected to pending disposition of the hearing.

- (4) In a hearing under subsection (1), the chief inspector may:
- (a) make any inquiries that he or she thinks fit; and
  - (b) require and take evidence under oath or affirmation.

#### Opportunity to achieve compliance

**37.** (1) Notice of a hearing shall afford to the applicant or permit holder a reasonable opportunity to show or to achieve compliance with all lawful requirements for the granting, retention or renewal of the permit before the hearing.

(2) An applicant or permit holder shall be given an opportunity to examine before a hearing any written or documentary evidence that will be produced or any reports whose contents will be given in evidence at the hearing.

#### Recording of evidence

**38.** (1) The oral evidence taken before the chief inspector at a hearing shall be recorded at the request of the applicant, the permit holder or the chief inspector.

(2) The recording shall be at the cost of the person making the request and, where copies of the transcript are requested, they shall be provided at the cost of the person making the request.

### Decision

**39.** (1) After a hearing, the chief inspector may refuse to grant the permit or may revoke, suspend or refuse to renew the permit if the permit holder is in contravention of this Act, the regulations, an inspector's decision or a restriction, limitation or condition in the permit.

(2) A revocation, suspension or refusal to renew under subsection (1) does not take effect until the later of the date of final decision in a hearing and the expiration of the 30-day period for filing an appeal, unless there is, or may be, in the chief inspector's opinion, a threat to public safety or to the safety of any person or property.

(3) After a hearing, the chief inspector may:

- (a) substitute his or her decision for that of the inspector;
- (b) revoke the inspector's decision if the chief inspector is satisfied
  - (i) that a demonstrable threat to public safety does not exist, or
  - (ii) that all provisions of this Act, the regulations or an inspector's order are being complied with or that the thing is being operated in accordance with the permit relating to it; or
- (c) confirm the inspector's decision if the chief inspector is not satisfied under clause (b).

(4) After a hearing, the chief inspector may in writing confirm the affixing of seals or direct the inspector to remove them.

(5) Where the chief inspector confirms an inspector's decision under clause (3)(c), the affected person may appeal to the Nunavut Court of Justice under section 40.

(6) If the appeal relates to the destruction of an article, neither the appellant nor the respondent shall dispose of the article pending the appeal.

## APPEALS

### Appeals

**40.** (1) An applicant or permit holder may appeal to the Nunavut Court of Justice if, after a hearing, the chief inspector:

- (a) refuses to grant or to renew a permit;
- (b) grants or renews a permit subject to conditions or restrictions; or
- (c) revokes or suspends a permit.

### How to appeal

**41.** (1) An appeal shall be made by filing a notice of appeal with the court within 30 days after receiving notice of the chief inspector's decision.

(2) The appeal may be filed by sending notice in writing by registered mail to the chief inspector and the court.

Time for hearing

**42.** Where a person has filed an appeal, the court shall appoint a time for hearing the appeal.

Extension of time for hearing

**43.** (1) The court may extend the time for filing an appeal if the court is satisfied that:

- (a) there are reasonable grounds for applying for an extension; and
- (b) there are apparent grounds for granting to the applicant or permit holder the relief sought in the appeal.

(2) In granting an extension, the court may give any directions it considers appropriate.

Parties

**44.** The chief inspector, the person who has appealed, and any other persons the court may specify are parties to an appeal.

Powers of court on appeal

**45.** (1) In deciding an appeal, the court may:

- (a) affirm the decision of the chief inspector;
- (b) rescind or vary the decision of the chief inspector;
- (c) substitute its own opinion for that of the chief inspector; or
- (d) order the chief inspector to take any action he or she is authorized to take under this Act or its regulations.

(2) A decision of the court under this section is final.

Immediate threat to safety

**46.** The bringing of an appeal under this section does not suspend or otherwise affect the decision appealed from where that decision was based on the chief inspector's opinion that there was an immediate threat to public safety or the safety of any person.

Disclosure of information

**47.** (1) An inspector shall not disclose to any person any information, record, report or statement obtained under the powers conferred under this Act and the regulations except for the purposes of carrying out his or her duties under the Act and regulations.

(2) An inspector is a compellable witness in a civil proceeding respecting any information, record, report or statement obtained under the powers conferred under this Act or the regulations.

(3) Notwithstanding subsection (2), and subject to subsection (4), a chief inspector may:

- (a) on reasonable grounds, refuse to permit an inspector to attend as a witness; or

- (b) require that an inspector's attendance as a witness be subject to such conditions as are reasonable and necessary for the proper administration of this Act and the regulations, including requiring the payment of a fee for the inspector's attendance as set out in the schedule of fees listed in the regulations.

(4) Subsection (3) does not apply if:

- a) the court orders that the inspector attend as a witness;
- b) the proceeding is a proceeding under the *Criminal Code*; or
- c) the Government of Nunavut is a party to the proceeding.

(5) A chief inspector shall provide in writing his or her decision, including the reasons for the decision, to refuse to permit an inspector to attend as a witness or to require that an inspector's attendance as a witness be subject to conditions.

#### Disclosure

**48.** A chief inspector may disclose or publish information, records, reports or statements obtained under the powers conferred under this Act and the regulations.

### OFFENCES AND PENALTIES

#### Offence

**49.** (1) Every person is guilty of an offence who:

- (a) contravenes or fails to comply with any provision of this Act or the regulations;
- (b) knowingly makes a false statement or furnishes false information under this Act or the regulations;
- (c) contravenes or fails to comply with a term or condition of a permit;
- (d) contravenes or fails to comply with a decision or safety order of an inspector or chief inspector; or
- (e) obstructs an inspector in the pursuit of his or her duties as authorized by the Act or the regulations.

(2) A person who commits an offence under this Act or the regulations is liable on conviction to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or to both, or, if that person is a body corporate, to a fine of not more than \$100,000.

#### Duty of director or officer

**50.** (1) Every director or officer of a body corporate has a duty to take all reasonable care to prevent the body corporate from committing an offence under this Act or the regulations.

(2) Every director or officer of a body corporate who has a duty under subsection (1) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both.

#### Separate offence

**51.** Where a person contravenes any of the provisions of this Act, the regulations, or any notice or safety order made under them on more than one day, the continuance of the contravention on each succeeding day shall be deemed to constitute a separate offence.

#### Administrative penalty

**52.** (1) If it appears to an inspector that a person is not complying with any provision of this Act or the regulations, the inspector may make an application to the chief inspector for an administrative penalty to be applied against the person in respect of the failure to comply and regardless of any other rights the person may have.

(2) Any person who considers himself or herself aggrieved by a decision of a chief inspector under subsection (1) may, within 30 days after the decision comes to the person's attention, appeal to the Nunavut Court of Justice by notice in writing sent by registered mail to the chief inspector and the court.

(3) Where a person has appealed under subsection (2), the court shall appoint a time for a hearing and shall hear the appeal.

(4) The court may affirm, rescind or vary the decision of the chief inspector and may direct the chief inspector to take any action that he or she is authorized to take under this Act or the regulations that the court considers proper.

(5) In making its decision, the court may substitute its opinion for that of the chief inspector.

#### Consequences of default in payment

**53.** (1) If a permit holder or an applicant for a permit is in default of the payment of a fee, an administrative penalty, a cost or other charge owing to the Government of Nunavut, or a fine imposed on conviction for an offence under this Act, a chief inspector may:

- (a) suspend the holder's permit; or
- (b) refuse to renew the holder's permit or to grant a permit to the applicant.

(2) If a permit is suspended under clause (1)(a), the permit holder is entitled to have the permit reinstated on providing proof to the chief inspector that the permit holder is no longer in default.

(3) If an application for a permit or for the renewal of a permit is refused under clause (1)(b), the applicant is entitled to the permit on providing proof to the inspector or chief inspector that the applicant is no longer in default.

(4) A chief inspector is not required to give notice or to hold a hearing before acting under subsection (1).

Administrative penalty does not preclude conviction

**54.** A person against whom an administrative penalty has been levied under this Act or the regulations may also be charged with, and convicted of, an offence under this Act for the same matter.

Time limit

**55.** No proceeding in respect of an alleged offence under this Act or the regulations may be commenced after six months following the date on which the facts that gave rise to the alleged offence were discovered by an inspector or chief inspector.

## REGULATIONS

Regulations

**56.** (1) The Commissioner upon the recommendation of the Minister may make regulations for the purpose of:

- (a) prescribing any matter or thing required or permitted to be prescribed under this Act or otherwise referred to as being prescribed under this Act;
- (b) regulating, governing and providing for the authorization of the design, fabrication, processing, handling, installation, operation, access, use, repair, maintenance, inspection, location, construction, removing, alteration, service, testing, filling, replacement, blocking, dismantling, destruction, removal from service and transportation of any thing, whether new or used, or a part of a thing, and any equipment or attachment used in connection with it;
- (c) prohibiting any person from doing anything that is not in compliance with this Act or the regulations;
- (d) establishing the powers, duties and responsibilities of chief inspectors;
- (e) classifying:
  - (i) any thing or part of a thing referred to in this Act or the regulations, and any equipment or attachment used in connection with it; and
  - (ii) qualifications required of persons under this Act or the regulations; and
  - (iii) permits;
- (f) exempting any person or thing or any class of persons or things from the application of any part of this Act or the regulations, and establishing the conditions of exemption;

- (g) establishing and requiring the payment of fees and other amounts;
- (h) establishing qualifications, training, experience, duties and responsibilities of persons to whom this Act and the regulations apply;
- (i) defining accident and classes of accidents and requiring the reporting of accidents;
- (j) authorizing the isolation of things by means of seals or otherwise;
- (k) prohibiting the sale, purchase, renting, installation or use of any thing to which this Act or the regulations apply that does not bear the label of an organization approved by the chief inspector;
- (l) establishing a system of authorization numbers to be used for the identification of things and requiring inspectors and insurers to use such numbers for stamping or otherwise permanently identifying every thing inspected by them that does not have such a number;
- (m) requiring welding operators to weld according to procedures approved by a chief inspector and to imprint the symbols assigned to them by a chief inspector on equipment or other things that they weld;
- (n) governing the conduct of persons in or about elevating devices;
- (o) requiring owners of pipelines to develop procedures for locating pipelines that shall be approved by the chief inspector;
- (p) requiring every person who welds on a pipeline to obtain a permit as required by the Act and regulations;
- (q) adopting new codes and standards from time to time and requiring the chief inspector to notify the public of the adoption of the new codes and standards;
- (r) requiring distributors to file proposed safety procedures and requiring that distributors comply with safety procedures that have been approved by a chief inspector;
- (s) establishing administrative penalties for failure to comply with the decision or safety order of an inspector or chief inspector;
- (t) providing for any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) A regulation under subsection (1) may be general or particular in its application.

(3) A regulation may establish different requirements for different classes of person, premises or activity.

#### Codes and standards

**57.** (1) The Commissioner may make regulations upon the recommendation of the Minister:

- (a) adopting by reference, in whole or in part and with such changes as he or she considers necessary, any code, standard, guideline or procedure, and requiring compliance with the thing as adopted;

- (b) amending or repealing codes and standards adopted by reference by a regulation before or after this section came into force.

(2) If a regulation under subsection (1) so provides, a code, standard, guideline or procedure adopted by reference shall be a reference to the code, standard, guideline or procedure as amended or replaced from time to time, and whether the amendment was made before or after the regulation was adopted.

(3) Codes and standards adopted by reference under a predecessor Act to which this section applies are continued in force until repealed and may be amended or varied as provided in this section.

### **REPEAL**

#### **Repeal**

**58. The *Boilers and Pressure Vessels Act*, the *Electrical Protection Act*, and the *Gas Protection Act* are repealed.**

### **COMING INTO FORCE**

#### **Coming into force**

**59. This Act comes into force on a day to be fixed by order of the Commissioner.**