

Chapter 8

AN ACT TO AMEND THE ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT AND RELATED STATUTES

(Assented to November 8, 2007)

The Commissioner of Nunavut, by and with the advice and consent of the Legislative Assembly, enacts as follows:

Access to Information and Protection of Privacy Act

1. (1) The *Access to Information and Protection of Privacy Act* is amended by this section.

(2) Paragraphs 3(1)(a) and (f) of the English version are amended by striking out "made from information".

(3) The English version of paragraph 3(2)(a) is amended by striking out "existing" and substituting "other".

(4) Subsection 4(2) is repealed and the following is substituted:

Conflict with other enactment

(2) If a provision of this Act is inconsistent with or in conflict with a provision of any other enactment, the provision of this Act prevails unless the other enactment is an Act, or is made under an Act, that expressly provides that the Act, a provision of the Act or a regulation or order made under the Act prevails despite this Act.

(5) Paragraph 48(h) is amended by adding "or the *Interjurisdictional Support Orders Act*" after "*Maintenance Orders Enforcement Act*".

Archives Act

2. (1) The *Archives Act* is amended by this section.

(2) Section 1 is amended by

(a) repealing the definition "government body" and substituting the following:

"government body" means

- (a) a department, branch or office of the Government of Nunavut,
- (b) an agency, board, commission, corporation, office or other body designated in the regulations, or
- (c) the office of a member of the Executive Council; (*organisme gouvernemental*)

(b) repealing the definition "public record" and substituting the following:

"public record" means a record that is created by or for or is received by a government body in carrying out its activities, but does not include

- (a) a record of the Office of the Legislative Assembly,
- (b) a record of a committee of the Legislative Assembly,
- (c) a record of a member of the Legislative Assembly other than a member of the Executive Council,
- (d) a record of a member of the Executive Council that relates to his or her activities as a member of the Legislative Assembly,
- (e) correspondence sent or received by or on behalf of a member of the Legislative Assembly, unless the correspondence relates to his or her responsibilities as a member of the Executive Council,
- (f) a record of a member of the Legislative Assembly, including a member of the Executive Council, that relates to his or her constituency office or to his or her representation of constituents, or
- (g) a surplus copy of a record or a copy of a record that is created only for convenience of reference; (*document public*)

(c) adding the following definition in alphabetical order:

"record" means a record of information in any form and includes information that is written, photographed, recorded or stored in any manner, but does not include a computer program or other mechanism that produces records; (*document*)

(3) Subsection 11(1) is amended by

- (a) **striking out "ordering" in paragraph (c) and substituting "authorizing";**
- (b) **striking out "and destruction of public records; and" in paragraph (d) and substituting ", storage, transfer and destruction of public records; ";**
- (c) **striking out the period at the end of paragraph (e) and substituting "; and"; and**
- (d) **adding the following after paragraph (e):**
- (f) establishing classes of records and public records for the purposes of regulations made under any or all of paragraphs (a) to (e).

(4) Subsection 11(2) is amended by adding the following after paragraph (a):

- (a.1) designating agencies, boards, commissions, corporations, offices or other bodies as government bodies;

Disease Registries Act

3. The *Disease Registries Act* is amended by adding the following after section 11:

Sections 12 and 13 prevail

11.1. If there is a conflict or inconsistency between sections 12 and 13 of this Act and the *Access to Information and Protection of Privacy Act*, sections 12 and 13 of this Act prevail to the extent of the conflict or inconsistency.

Education Act

4. The *Education Act* is amended by adding the following after section 32:

Access to Information and Protection of Privacy Act

32.1. If there is a conflict or inconsistency between sections 29 to 32 of this Act and the *Access to Information and Protection of Privacy Act*, sections 29 to 32 of this Act prevail to the extent of the conflict or inconsistency.

Evidence Act

5. Section 15 of the *Evidence Act* is amended by adding the following after subsection (4):

Paramountcy

(5) This section prevails despite any conflict or inconsistency with the *Access to Information and Protection of Privacy Act*.

Financial Administration Act

6. Subsection 1(3) of the *Financial Administration Act* is repealed and the following substituted:

Paramountcy

(3) If there is a conflict between this Act, or a regulation, directive or order made under this Act, and any other enactment except the *Access to Information and Protection of Privacy Act*, this Act or the regulation, directive or order made under this Act prevails to the extent of the conflict, unless this Act provides otherwise or another Act expressly states that it, or a regulation, directive or order made under it, operates despite this Act.

Human Rights Act

7. (1) The *Human Rights Act* is amended by this section.

(2) Section 47 is amended by

- (a) renumbering it as subsection 47(1);**
- (b) striking out "and" at the end of paragraph (d); and**
- (c) adding the following after paragraph (d):**

- (d.1) respecting the access to personal information, and the collection, use, disclosure, transfer, storage or destruction of personal information for purposes authorized under this Act; and

(3) The following is added after subsection 47(1):

Personal information, use and disclosure

(2) Regulations made under subparagraph 47(1)(d.1) prevail despite any conflict or inconsistency with the *Access to Information and Protection of Privacy Act*.

(4) This section comes into force on the day on which the Human Rights Tribunal is designated as a public body in accordance with the *Access to Information and Protection of Privacy Act*.

Insurance Act

8. That portion of subsection 21.1(3) of the *Insurance Act* preceding paragraph (a) is amended by striking out "The Superintendent" and substituting "Despite the *Access to Information and Protection of Privacy Act*, the Superintendent".

Labour Standards Act

9. Section 66 of the *Labour Standards Act* is amended by striking out "Where a person" and substituting "Despite the *Access to Information and Protection of Privacy Act*, if a person".

Medical Care Act

10. Section 16 of the *Medical Care Act* is repealed and the following substituted:

Testimony in civil proceedings

16. Except with the consent of the Minister, no person who is engaged in the administration of this Act shall be required to testify in a civil suit or proceeding with regard to information obtained by the person in the discharge of his or her duties except in a proceeding authorized by this Act, the regulations under this Act or the *Access to Information and Protection of Privacy Act*.

Payroll Tax Act, 1993

11. (1) The *Payroll Tax Act, 1993* is amended by this section.

(2) That portion of subsection 55(1) preceding paragraph (a) is amended by striking out "Subject to" and substituting "Despite the *Access to Information and Protection of Privacy Act* and subject to".

(3) That portion of subsection 55(2) preceding paragraph (a) is amended by striking out "The Minister" and substituting "Despite the *Access to Information and Protection of Privacy Act*, the Minister".

Qulliq Energy Corporation Act

12. Section 1.1 of the *Qulliq Energy Corporation Act* is repealed and the following substituted:

Paramountcy

1.1. If there is a conflict or an inconsistency between this Act or the regulations made under this Act, and any other enactment except the *Access to Information and Protection of Privacy Act*, this Act or the regulations made under this Act prevail to the extent of the conflict or inconsistency.

Vital Statistics Act

13. (1) The *Vital Statistics Act* is amended by this section.

(2) The following is added after section 1:

Paramountcy

1.1. If there is a conflict or inconsistency between a provision of this Act and a provision of the *Access to Information and Protection of Privacy Act*, the provision of this Act prevails to the extent of the conflict or inconsistency.

(3) Section 60 is amended by

- (a) renumbering it as subsection 60(1); and**
- (b) adding the following after subsection (1):**

Personal information protection, use and disclosure

(2) The regulations authorized by subsection (1) respecting the collection, protection, use, disclosure, transfer, storage or destruction of personal information prevail despite any conflict or inconsistency with the *Access to Information and Protection of Privacy Act*.

Wildlife Act

14. Subsection 5(4) of the *Wildlife Act* is repealed and the following substituted:

Conflict with other enactments

(4) This Act, or a regulation or order made under this Act, prevails to the extent of any inconsistency or conflict with the following:

- (a) any other enactment or any order made under another enactment, except the *Access to Information and Protection of Privacy Act*; or
- (b) any municipal by-law.

Young Offenders Act

15. The *Young Offenders Act* is amended by adding the following after section 74:

Confidentiality

74.1. No person shall use, disclose or transfer a record kept pursuant to section 63, or any personal information obtained under this Act or in the course of his or her employment, contrary to

- (a) this Act;
- (b) the policies of the Government of Nunavut; or
- (c) the *Access to Information and Protection of Privacy Act*.

Paramountcy

74.2. The provisions of this Act respecting the privacy, confidentiality, collection, use, disclosure, transfer and destruction of records and other personal information prevail despite any conflict or inconsistency with the *Access to Information and Protection of Privacy Act*.