

Chapter 7

AN ACT TO AMEND THE FIRE PREVENTION ACT

(Assented to March 14, 2017)

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

1. **The *Fire Prevention Act* is amended by this Act.**
2. **The Act is renamed the *Fire Safety Act*.**
3. **Section 1 is amended by adding the following definition in alphabetical order:**

"fire protection plan" means a fire protection plan made in accordance with section 5.01; (*plan de protection contre les incendies*)

4. **Section 3 is amended**
 - (a) **by renumbering the section as subsection 3(1); and**
 - (b) **by repealing paragraphs (1)(d) and (1)(d.1);**
 - (c) **by striking out "fire-alarm systems and" in subparagraph (1)(f)(iii);**
 - (d) **by striking out "and in or on any structure, premises or property" in subparagraph (1)(f)(vi); and**
 - (e) **by adding the following after subsection (1):**

Powers with respect to municipalities

(2) The Fire Marshal may

- (a) provide municipalities with advice and guidance on matters related to fire prevention and fire protection;
 - (b) provide municipalities with training related to fire prevention and fire protection;
 - (c) supply municipalities with equipment and materials related to fire prevention and fire protection or provide municipalities with funding for that purpose;
 - (d) maintain, or provide funding for maintaining, municipal equipment and buildings related to fire prevention and fire protection;
 - (e) provide municipalities with any other funding or resources the Fire Marshal considers advisable to support fire prevention and fire protection services and activities;
 - (f) enter into agreements with municipalities on any matter referred to in paragraphs (a) to (e).
- (f) **in paragraph (2)(a) by adding "**, including their fire protection plans" **after "fire protection".**

5. The following is added after section 5:

Fire protection plan

5.01. (1) Every municipality shall make and maintain a fire protection plan for the municipality in accordance with the regulations.

Purpose, contents and approval

- (2) A fire protection plan must
- (a) provide for adequate fire protection within the municipality;
 - (b) comply with the regulations; and
 - (c) be approved by a resolution of the council of the municipality.

Submission for approval

(3) Where a municipality makes or amends a fire protection plan, or is, under the regulations, required to seek re-approval for an existing fire protection plan, the municipality shall submit the plan to the Fire Marshal for approval.

Approval and mandate

- (4) If the Fire Marshal is satisfied that a fire protection plan submitted under subsection (3) complies with the requirements of subsection (2), the Fire Marshal shall
- (a) approve the fire protection plan; and
 - (b) subject to subsection (6), make mandatory
 - (i) the entire fire protection plan, or
 - (ii) any part of the fire protection plan that complies with the requirements of subsection (2), as specified by him or her.

Fire protection plan made by Fire Marshal

(5) Subject to subsection (6), if a municipality does not submit a fire protection plan to the Fire Marshal under subsection (3), or the Fire Marshal is not satisfied that a fire protection plan submitted by a municipality under subsection (3) complies with the requirements of subsection (2), the Fire Marshal shall

- (a) make a fire protection plan for the municipality that complies with the requirements of paragraphs (2)(a) and (b); and
- (b) make the fire protection plan mandatory.

Not exceeding requirements

(6) The Fire Marshal may not make a fire protection plan, or make mandatory any part of a fire protection plan, that exceeds the requirements of paragraphs (2)(a) or (b).

Implementation

(7) A municipality, with respect to a fire protection plan approved for it under subsection (4) or made for it under subsection (5),

- (a) shall implement the mandatory part of a fire protection plan; and
- (b) may implement the non-mandatory part, if any, of the fire protection plan.

Statutory Instruments Act

(8) The *Statutory Instruments Act* does not apply to a fire protection plan.

Public access to fire protection plan

(9) A municipality shall make available a copy of a municipality's fire protection plan for inspection by members of the public at the offices of the municipality during regular business hours.

6. (1) Paragraph 12(1)(h) is amended by adding ", where required by the code, " **after "install and use".**

(2) Paragraph 12(4)(e) is repealed and the following substituted:

(e) the right to review or reconsideration by the Fire Marshal under section 14.

7. Section 15 is repealed and the following substituted:

Review and reconsideration of orders

Review of orders by Assistant Fire Marshal or local assistant

14. (1) A person who is subject to a decision or order made under this Act by an Assistant Fire Marshal or a local assistant may apply to have the decision or order reviewed by the Fire Marshal by filing an application within seven days after the day on which the decision or order is served on the person.

Reconsideration of orders by Fire Marshal

(2) A person who is subject to a decision or order made under this Act by the Fire Marshal, other than one confirmed or varied under this section, may apply to the Fire Marshal for reconsideration of the decision or order by filing a written application for reconsideration within seven days after the day on which the decision or order is served on the person.

Contents of notice or application

(3) The application for review or reconsideration must set out

- (a) the reasons for the application;
- (b) a summary of any facts relevant to the application;
- (c) whether the decision or order should be revoked or what changes should be made to it; and
- (d) the contact information of the applicant.

Process

(4) The Fire Marshal shall consider the application, including any oral or written evidence submitted by the applicant or available to the Fire Marshal to support or repudiate any allegation contained in the application.

No stay

(5) Unless otherwise ordered by the Fire Marshal, an application for review or reconsideration does not operate as a stay of the decision or order being reviewed or reconsidered.

Extrinsic evidence

(6) If the Fire Marshal intends to rely on evidence other than that submitted by the applicant in considering an application, the Fire Marshal shall provide that evidence to the applicant and allow the applicant to respond with further evidence.

Decision

(7) The Fire Marshal shall, within 10 days after receiving the application for reconsideration, make a decision whether to confirm, vary or rescind the decision or order.

Copy to applicant

(8) The Fire Marshal shall provide the applicant, and any other affected party, with a written copy of the decision made under subsection (7), with reasons, as soon as practicable.

Notice of right to apply

(9) In providing a decision under subsection (8), the Fire Marshal shall provide notice of the right to apply to the Advisory Committee for a ruling under section 14.1.

Application to Advisory Committee

14.1. (1) Subject to subsection (2), a person aggrieved by the decision of the Fire Marshal made under section 14 may apply to the Advisory Committee for a ruling on any of the following grounds:

- (a) an interpretation of the technical requirements of the code or the sufficiency of compliance with those requirements;
- (b) a decision respecting an order made pursuant to subsection 12(1) or (2) or paragraph 12(3)(b).

Exception

(2) For greater certainty, an application may not be made under subsection (1) where the decision relates to an order made under section 11.3.

Destruction of article

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

Procedure

(4) The relevant procedure under the *Building Code Act* applies to applications and rulings under this section.

Appeal

15. The ruling of the Advisory Committee may be appealed to the Nunavut Court of Justice in the manner set out in section 19 of the *Building Code Act*.

8. Section 17.1 is amended by striking out "and local assistants" and substituting ", local assistants, the Advisory Committee or members of the Advisory Committee".

9. (1) Subsection 23(1) is amended

(a) by adding the following after paragraph (d):

(d.1) respecting fire protection plans, including

(i) their objectives,

(ii) their making and amendment, including matters that must be considered in making or amending a fire protection plan,

(iii) their maintenance, including periodic reviews and re-approvals by the Fire Marshal,

(iv) minimum standards for training, equipment, and supplies that must be included in a fire protection plan,

(v) other matters that must be included in a fire protection plan, and

(vi) the approval process;

(b) in paragraph (e) by striking out ", the provision and installation of safety devices and adequate means of exit";

(c) by adding "and" at the end of the English version of paragraph (e.1); and

(d) by repealing paragraph (f).

(2) The following is added after subsection 23(1):

Adoption by reference

(1.1) Regulations made under paragraph (1)(d.1)(iv) may adopt by reference, in whole or in part, with or without modifications, and as amended from time to time, codes and standards respecting training, equipment, or supplies for the purposes of inclusion in fire protection plans.

(3) The following is added after subsection 23(2):

Code amendments

(2.1) The Advisory Committee may receive applications and make recommendations to amend a code adopted pursuant to paragraph (2)(a) in the manner provided for in section 20 of the *Building Code Act*.

Consequential amendments

Building Code Act

10. Subsections 35(2.1), 35(3), and 35(6) to (8) of the *Building Code Act* are repealed.

Cities, Towns and Villages Act

11. The *Cities, Towns and Villages Act* is amended by
- (a) striking out "and" in the English version of paragraph 170.9(d); and
 - (b) adding the following after paragraph 170.9(d):
 - (d.1) the mandatory part of the municipal fire protection plan, as provided for in the *Fire Safety Act*; and

Hamlets Act

12. The *Hamlets Act* is amended by
- (a) striking out "and" in the English version of paragraph 170.9(d); and
 - (b) adding the following after paragraph 170.9(d):
 - (d.1) the mandatory part of the municipal fire protection plan, as provided for in the *Fire Safety Act*; and

Liquor Act

13. Paragraph 37(b) of the *Liquor Act* is amended by striking out "*Fire Prevention Act*" and substituting "*Fire Safety Act*".

Transitional

14. Every municipality shall make and submit a fire protection plan for approval in accordance with section 5.01 of the Act within six months of section 5 of this Act coming into force, and is deemed to be in compliance with section 5.01 of the Act during that time.

Coming into force

15. (1) Subject to subsections (2) to (6), this Act comes into force on Assent.
- (2) Paragraphs 4(b) to (d) and 9(1)(b) to (d) of this Act come into force immediately after section 5 of the *Building Code Act* comes into force, or, if it is already in force, on Assent.
- (3) The following provisions of this Act come into force on a day to be fixed by order of the Commissioner:
- (a) section 3;
 - (b) paragraph 4(f);
 - (c) section 5;
 - (d) paragraph 9(1)(a);

- (e) subsection 9(2);
- (f) section 14.

- (4) Sections 6 to 8 of this Act come into force immediately after the later of
- (a) sections 17 to 19 and subsection 35(2) of the *Building Code Act* coming into force;
 - (b) sections 16 and 17 of *An Act to Amend certain Acts respecting Codes and Standards*, introduced as Bill 28 in the third session of the Fourth Legislative Assembly, coming into force; and
 - (c) Assent.

- (5) Subsection 9(3) of this Act comes into force immediately after the later of
- (a) subsection 35(10) of the *Building Code Act* coming into force;
 - (b) section 19 of *An Act to Amend certain Acts respecting Codes and Standards*, introduced as Bill 28 in the third session of the Fourth Legislative Assembly, coming into force; and
 - (c) Assent.

- (6) Sections 11 and 12 of this Act come into force six months after section 5 of this Act comes into force.