

**OFFICIAL CONSOLIDATION OF PUBLIC HIGHWAYS ACT**  
**C.S.Nu.,c.P-190**

*(Consolidation date: November 8, 2022)*

**R.S.N.W.T. 1988,c.P-13**

**AS AMENDED BY NORTHWEST TERRITORIES STATUTES:**

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

S.N.W.T. 1998,c.40

**AS AMENDED BY NUNAVUT STATUTES:**

S.Nu. 2011,c.6,s.20

s.20 in force February 25, 2011

S.Nu. 2013,c.20,s.34

s.34 in force May 16, 2013

S.Nu. 2017,c.20,s.72

s.72 in force December 31, 2018 except for s.20,21,49,50,54, and 55

s.20,21,49,50,54, and 55 in force on January 25, 2018: SI-001-2018

S.Nu. 2020,c.15,s.142(1),(3)

s.142(1),(3) in force July 1, 2021: R-030-2021

S.Nu. 2022,c.14,s.9(j)

s.9(j) in force November 8, 2022

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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. <i>(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.)</i>
SI-013-2017	means the instrument registered as SI-013-2017 in 2017. <i>(Note: This is a Nunavut statutory instrument made on or after January 1, 2000.)</i>

### *Citation of Acts*

R.S.N.W.T. 1988,c.D-22	means Chapter D-22 of the <i>Revised Statutes of the Northwest Territories, 1988</i> .
R.S.N.W.T. 1988,c.10(Supp.)	means Chapter 10 of the Supplement to the <i>Revised Statutes of the Northwest Territories, 1988</i> . <i>(Note: The Supplement is in three volumes.)</i>
S.N.W.T. 1996,c.26	means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
S.Nu. 2011,c.15	means Chapter 15 of the 2011 Annual Volume of the Statutes of Nunavut.

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**PUBLIC HIGHWAYS ACT****INTERPRETATION****Definitions****Definitions****1.** In this Act,

"construction" means the construction or reconstruction of a highway and the doing of any other work that is necessary to put a highway in a condition for use by vehicles, but does not include maintenance; (*construction*)

"council" means the council of a municipal corporation; (*conseil*)

"highway" means a highway as defined in the *Traffic Safety Act*; (*route*)

"highway authority" means

- (a) the Minister, in respect of highways subject to the direction, control and management of the Minister, or
- (b) a municipal corporation, in respect of highways subject to its direction, control and management; (*autorité responsable des routes*)

"maintenance" means the preservation and repair of a highway and any other work necessary to keep a highway in serviceable condition; (*entretien*)

"municipal corporation" means a corporation established or continued as

- (a) a city, town or village within the meaning of the *Cities, Towns and Villages Act*, or
- (b) a hamlet within the meaning of the *Hamlets Act*; (*municipalité*)

"municipality" means the geographic area of jurisdiction of a municipal corporation; (*municipalité*)

"permit" means a permit issued under section 21; (*permis*)

"primary highway" means a highway or proposed highway designated as a primary highway under subsection 2(1); (*route principale*)

"roadside improvement" means

- (a) a building, structure, fixture or road,
- (b) a tree, shrub or hedge, or
- (c) a sign, notice, advertising device or flashing or rotating light; (*améliorations des abords routiers*)

"roadway" means a roadway as defined in the *Traffic Safety Act*; (*chaussée*)

"settlement" means the geographic area designated as a settlement under the *Settlements Act*; (*localité*)

"traffic" means traffic as defined in the *Traffic Safety Act*; (*circulation*)

"traffic control device" means a sign, signal, light, line, marking or device placed or erected under section 5 for the purpose of regulating, warning or guiding traffic. (*dispositif de régulation de la circulation*)

S.Nu. 2011,c.6,s.20; S.Nu. 2017,c.20,s.72(a); S.Nu. 2020,c.15,s.142(1).

## CONSTRUCTION AND MAINTENANCE OF HIGHWAYS

### Designation of primary highway

- 2.** (1) The Minister may, by order, designate as a primary highway
- (a) any existing highway, or
  - (b) any proposed highway,
- and may specify a route number for the primary highway.

### Description of highway

(2) In an order under subsection (1), the existing highway or the land to be used for the proposed highway is sufficiently described if its location is indicated on a map attached to the order showing the route of the primary highway.

### Title

(3) No order shall be made under subsection (1) in respect of an existing highway or proposed highway within a municipality unless the title to the highway or the land to be used for the proposed highway is vested in the Crown. S.Nu. 2020,c.15,s.142(1); S.Nu. 2022,c.14,s.9(j).

### Control of primary highway

**3.** Despite anything in the *Charter Communities Act*, *Cities, Towns and Villages Act*, *Hamlets Act* or *Traffic Safety Act*, all primary highways are subject to the direction, control and management of the Minister. S.Nu. 2017,c.20,s.72(b); S.Nu. 2020,c.15,s.142(1).

### Maximum speed limits

- 4.** (1) The Minister may establish the maximum speed for vehicles drawn, propelled or driven by any kind of power, including muscular power on any highway or class of highway outside a municipality and a primary highway within a municipality and may establish different maximum speed limits for vehicles
- (a) of different classes;
  - (b) being used for particular purposes;
  - (c) during the day and night;
  - (d) during different periods of the year;
  - (e) in different lanes on the same highway; and
  - (f) on highways under construction or repair or in a state of disrepair.
- S.N.W.T. 1998,c.40,s.1(2)(a); S.Nu. 2020,c.15,s.142(1).

**(2) Repealed, S.N.W.T. 1998,c.40,s.1(2)(b).**

## Traffic control devices

- 5.** The Minister may, with respect to a highway outside a municipality and a primary highway within a municipality,
- (a) authorize the placement and erection of traffic control devices that the Minister considers necessary; and
  - (b) provide for the maintenance and repair of traffic control devices.
- S.Nu. 2020,c.15,s.142(1).

## Delegation

- 6.** The Minister may delegate the powers referred to in sections 4 and 5.
- S.Nu. 2020,c.15,s.142(1)

## Purchase and expropriation of land

- 7.** The Minister may, with the consent of a council, purchase or expropriate land within the municipality represented by that council for the purpose of a highway. S.Nu. 2020,c.15,s.142(1)

## Responsibility of highway authority

- 8.** Except as otherwise provided in an agreement made under this Act, each highway authority is responsible for the costs of construction and maintenance of all highways subject to its direction, control and management.

## Agreements with Government of Canada

- 9.** The Minister may, subject to the terms and conditions that may be agreed upon, enter into agreements with the Government of Canada for the construction and maintenance of highways and ferries. S.Nu. 2020,c.15,s.142(1)

## Agreement with municipality

- 10.** (1) The Minister and a municipal corporation may enter into an agreement with respect to a primary highway within the municipality.

## Provisions of agreement

- (2) An agreement made under subsection (1) may provide for any matter with respect to the construction and maintenance of the primary highway by the Minister, including, without limiting the generality of the above,
- (a) the construction, maintenance or abandonment of any works or undertakings of the municipal corporation that may directly or indirectly affect the primary highway or the control and regulation of traffic on the primary highway; and
  - (b) the contribution by the municipal corporation to the Minister of a portion of the cost of construction or maintenance of the primary highway.
- S.Nu. 2020,c.15,s.142(1).

#### Provision respecting by-laws in agreement

**11.** (1) An agreement under section 10 may provide that, as of a specified date, the by-laws of the municipal corporation respecting the control of traffic apply to the primary highway, subject to any restrictions, limitations or conditions on the application of those by-laws that may be set out in the agreement.

#### Invalidity of by-laws

(2) Where an agreement under section 10 provides for any matters mentioned in subsection (1), any by-law of the municipal corporation that is, on or after the date specified in the agreement, not in accordance with the agreement, is invalid insofar as it applies to the primary highway.

#### Agreements with persons

**12.** The Minister may enter into an agreement with any person under which that person agrees to contribute the whole or part of the costs of construction of any traffic interchange, underpass, overpass or any other addition or improvement with respect to a primary highway or a road subject to the direction, control and management of the Minister. S.Nu. 2020,c.15,s.142(1).

### CONTROL OF ACCESS AND ADJACENT DEVELOPMENT

#### Abrogation of common law rights

**13.** (1) A person

- (a) is not entitled as of right to any direct access to or from a primary highway from or to any land adjacent to it; and
- (b) does not have any right of easement, light, air or view to, from or over a primary highway.

#### Compensation

(2) No person is entitled as of right to any compensation solely by reason of the designation of a highway as a primary highway.

#### Buildings dangerous or unsightly

**14.** (1) Where, in the opinion of the Minister, an unoccupied building, structure, fixture or excavation within 120 m of the centre line of a primary highway is

- (a) dangerous to public safety or health because of its ruinous, dilapidated, unsafe or unprotected condition, or
- (b) detrimental to the surrounding area because of its unsightly condition,

the Minister may make an order with respect to the building, structure, fixture or excavation.

#### Order to remedy

(2) An order made under subsection (1) may require the owner within a period of time, which must not be less than 60 days after the date of the making of the order,

- (a) to remedy the condition in the manner and to the extent directed in the order; or
- (b) to remove the building, structure or fixture or fill the excavation and level the site of the building, structure or fixture.



### Failure to remedy

#### (3) Where

- (a) the owner does not remedy the condition within the period specified in an order made under subsection (1), or
- (b) the building, structure or fixture has not been removed at the expiration of the period specified in the order,

the Minister may cause the condition to be remedied to the extent directed in the order or cause the unoccupied building, structure or fixture to be demolished or removed or the excavation to be filled and the site of the building, structure or fixture levelled.

### Removal

(4) A removal referred to in subsection (3) may be done by way of selling the building, structure or fixture, in which case the net proceeds realized from the sale shall be paid to the owner, mortgagee or other person entitled to the proceeds.

### Where proceeds insufficient

#### (5) Where

- (a) the proceeds from the sale of a building, structure or fixture under subsection (4) are insufficient to meet the costs of the clearance of the site,
- (b) no proceeds are realized from the removal of the building, structure or fixture, or
- (c) the condition is remedied by the Minister,

the Minister may charge the costs of the work done against the owner of the land on which the building, structure or fixture was located, and recover the costs as a debt due to Nunavut.

### Appeal

(6) A person who is aggrieved by an order of the Minister made under this section may apply to the Nunavut Court of Justice within 30 days after the date of making the order, and if the Nunavut Court of Justice is satisfied that

- (a) the proper procedure as set out in this section has not been followed, or
- (b) the Minister has acted in a manner contrary to the intent and meaning of this section,

the Nunavut Court of Justice may set aside or vary the order of the Minister.

S.Nu. 2020,c.15,s.142(1).

### Commercial sites

**15.** When a site used for commercial purposes within 60 m of the centre line of a primary highway ceases to be used for commercial purposes for a period of one year, the site shall not again be used for commercial purposes, unless a permit for that purpose is issued.

### Closing of access to highways

**16.** (1) The Minister may at any time close

- (a) any highway providing access to or from a primary highway; or
- (b) any means of access between a primary highway and land adjacent to a primary highway.

### Entering and leaving primary highway

- (2) No person shall enter on or leave a primary highway except by way of
- (a) a highway connecting with the primary highway;
  - (b) a means of access in existence before the designation of a highway as a primary highway under subsection 2(1), and not subsequently closed by the Minister under subsection (1);
  - (c) a means of access authorized by permit; or
  - (d) a means of access exempted under the regulations from the requirement for a permit.

### Access to primary highway prohibited

(3) No person shall construct or maintain a means of access to or from a primary highway unless

- (a) a permit authorizes the construction, maintenance and use of it as a means of access;
- (b) the regulations exempt the construction and maintenance from the requirement for a permit; or
- (c) the means of access was in existence before the designation of the highway as a primary highway under subsection 2(1), and has not been subsequently closed by the Minister under subsection (1).  
S.Nu. 2020,c.15,s.142(1).

### Compensation for loss from closure of access

**17.** (1) Subject to subsections (2) to (4), where a means of access was maintained in accordance with this Act and the regulations at the time it is closed under section 16, the Minister shall compensate each person owning an estate or interest in the adjacent land as registered owner, life tenant, tenant or purchaser for the loss resulting to the person from the closing of the means of access.

### Amount of compensation

(2) The aggregate amount of compensation payable under subsection (1) in an individual case shall not exceed the difference between

- (a) the appraised value of the adjacent land before the closing of the means of access; and
- (b) the appraised value of that land after the closing of the means of access.

### Where access maintained pursuant to permit

(3) Where, before its closing, a means of access was maintained pursuant to a permit, the payment of compensation is subject to the terms of the permit.

### Service or frontage road

(4) Where a direct means of access is closed and a service or frontage road is provided, no compensation is payable under this section.

#### How claim made

(5) A claim for compensation under this section must be made by filing the claim and particulars of the claim in the office of the Minister not later than one year after the date of the closing of the means of access, and the compensation shall be determined as of that date.

#### Procedure

(6) Where compensation in respect of the closing of a means of access cannot be agreed upon, the claim shall be dealt with under the same procedure as that applicable to claims for damages for injurious affection under the *Expropriation Act* except where those provisions are inconsistent with this section. S.Nu. 2020,c.15,s.142(1).

#### Signs

**18.** No person shall erect or display a sign that is

(a) within 500 m of the centre line of a primary highway, and

(b) intended to be viewed by the public using the primary highway,

unless authorized by a permit issued under section 21.

#### Notice for removal

**19.** (1) Where a building, structure, fixture, sign or means of access is located or erected on land in contravention of this Act or the regulations or the conditions contained in a permit, the Minister may, by notice, require the owner of it to move, remove or alter the building, structure, fixture, sign or means of access as specified in the notice within the time specified in the notice or any extension of that time allowed by the Minister.

#### Form of notice and service

(2) A notice under subsection (1) must be in writing and must be served on the owner or owners either personally or by mail.

#### Compensation

(3) An owner who complies with a notice given under this section is entitled to due compensation from Nunavut for their reasonable expense incurred in complying with the notice unless the owner has contravened this Act or the regulations or the conditions contained in a permit.

#### How claim made

(4) A claim for compensation under this section must be made by filing the claim and particulars of the claim in the office of the Minister not later than one year after the date of service of the notice.

#### Procedure

(5) Where compensation cannot be agreed upon, the claim shall be dealt with under the same procedure as that applicable to claims for damages for injurious affection under the *Expropriation Act* except where those provisions are inconsistent with this section.

**Failure to comply****(6) Where**

- (a) notice has been served pursuant to this section, and
- (b) the owner or owners fail to comply with the notice within the time specified in the notice, or any extension of that time,

the Minister may, in writing, direct any person to enter on the land and do or cause to be done any acts that were required to be done by the notice.

**Recovering expenses**

(7) The expenses incurred by the Minister under this section may be recovered as a debt due to Nunavut from the owner who failed to comply with the notice, and where the owner or owners fail to comply with the notice, they are jointly and severally liable under this subsection. S.Nu. 2020,c.15,s.142(1).

**Offence**

**20.** (1) Every person who fails to comply with a notice given to them under section 19 is guilty of an offence.

**Order**

(2) On conviction for an offence under subsection (1), the convicting court shall order the person convicted to move, remove or alter, within the period specified in the order, the building, structure, fixture, sign or means of access in respect of which the person is convicted.

**Failure to comply**

(3) A person who fails to comply with an order made pursuant to subsection (2) is guilty of an offence and liable to a fine not exceeding \$25 for each day during which the failure to comply with the order continues.

**Limitation period**

(4) A prosecution for an offence of failing to comply with an order made pursuant to subsection (2) may not be commenced more than two years after the date of service of the notice under section 19.

**Evidence**

(5) In a prosecution for an offence of failing to comply with a notice given under section 19, a copy of a notice purporting to be made under section 19 and to be signed by the Minister shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the contents of the notice and the signature of the Minister on the notice. S.Nu. 2013,c.20,s.34; S.Nu. 2020,c.15,s.142(1).

**Permits**

**21.** (1) The Minister may issue any permit on the terms and conditions that the Minister considers proper and may, in the discretion of the Minister, cancel a permit at any time.

**Same**

(2) A permit may be issued on behalf of the Minister by any person authorized by the Minister to do so. S.Nu. 2020,c.15,s.142(1).

## GENERAL

### Drainage of highways

- 22.** The Minister shall make adequate provision for
- (a) the drainage of all highways subject to the direction, control and management of the Minister so as not to affect adversely existing drainage systems on lands adjacent to the highway; and
  - (b) the disposition of any water collected in a drainage ditch or other artificial depression created by the Minister on or contiguous to a highway subject to the discretion, control or management of the Minister.
- S.Nu. 2020,c.15,s.142(1).

### Action under section 22

- 23.** (1) No action shall be brought for the recovery of damages under section 22 unless notice in writing of the claim and of the injuries complained of has been served on or sent by registered letter to the Minister within one month after the happening of the injury.

### Notice

- (2) The failure to give or the insufficiency of the notice referred to in subsection (1) is not a bar to the action if the judge before whom the action is tried is of the opinion that there is reasonable excuse for the failure or insufficiency and that Nunavut is not prejudiced in its defence as a result of that. S.Nu. 2020,c.15,s.142(1).

### Temporary closure of highway

- 24.** (1) While any construction or maintenance is in progress on a highway, the highway authority may close to traffic that part of the highway on which the work is being carried out, for the time that it considers necessary.

### Closed highways

- (2) Every person using a highway closed to traffic in accordance with this section does so at their own risk and the highway authority is not liable in any action for damages resulting from the use by a person of a highway so closed to traffic.

### Entry to closed highway

- (3) Where a highway is closed under this section, no person shall enter or travel on the highway unless they
- (a) are authorized to do so by the highway authority; or
  - (b) enter or travel on the highway in the course of their duties in connection with the construction or maintenance work being carried out on that highway.

### Closure of highway

- 25.** The Minister may by order close the whole or any portion of a primary highway.
- S.Nu. 2020,c.15,s.142(1).

### Remedying dangerous conditions

**26.** (1) Where a peace officer finds on any land conditions existing that may cause danger to life or to property of any person travelling on a highway, the peace officer may enter on the land with the equipment and persons that the peace officer considers necessary and do any acts necessary to remedy the conditions.

### Compensation

(2) No person is entitled to compensation in respect of damages resulting from any acts done under this section.

### Ferries

**27.** Where the Minister considers it expedient to do so, the Minister may establish and operate a ferry over or on a river, stream, lake or other body of water, and may do any other works that are necessary for the operation of the ferry. S.Nu. 2020,c.15,s.142(1).

### Obstruction of or damage to highway

**28.** (1) Every person is guilty of an offence who, without justification or excuse,  
(a) obstructs a highway or deposits any material on a highway; or  
(b) interferes with, breaks, cuts or otherwise damages a highway.

### Removal

(2) The court that convicts a person of an offence under paragraph (1)(a) may also order the convicted person to remove any obstruction from, or material deposited on, the highway without delay.

### Removal by highway authority

(3) Where a person contravenes subsection (1), the highway authority concerned may remove the obstruction or material deposited on the highway or repair the highway, as the case may be, and recover its expenses incurred in doing so from that person in an action in debt.

### Same

(4) Subsection (3) applies whether or not there is a conviction for an offence under subsection (1) or an order under subsection (2).

### Detours

(5) Where for any reason a detour is required on a highway, the highway authority shall  
(a) ensure that directional signs are prominently displayed warning the persons travelling on the highway of the detour; and  
(b) take reasonable precautions to ensure that persons using the detour in accordance with the signs may do so with safety.

### General punishment

**29.** Every person who is guilty of an offence under this Act or the regulations for which no specific punishment is provided is liable on summary conviction,

(a) for the first offence, to a fine not exceeding \$200 and, in default of payment, to imprisonment for a term not exceeding 15 days; and

- (b) for each subsequent offence, to a fine not exceeding \$500 or, in default of payment, to imprisonment for a term not exceeding 30 days.

### Regulations

**30.** The Minister may make regulations

- (a) governing the operation of ferries;
- (b) classifying primary highways as freeways, expressways, arterial highways, collector highways and any other class that the Minister may establish;
- (c) prescribing the terms and conditions applicable to the issuing of permits under this Act;
- (d) exempting any class or classes of means of access to or from a primary highway from the requirement for a permit under this Act;
- (e) prohibiting, except under the authority of a permit,
  - (i) the placing, construction, enlarging, extending or erecting or re-erecting of a building, structure, fixture, road, airstrip, excavation or other development, whether on, above or below ground, and
  - (ii) the display of machinery, motor vehicles or other articles, whether placed for storage or wrecking or for the purposes of advertising or sale,within a distance from a primary highway that is prescribed;
- (f) controlling, restricting or prohibiting the erection or display of a sign, notice or advertising device within a distance from a primary highway that the regulations may prescribe;
- (g) prohibiting the display of a flashing or rotating light within a distance from a primary highway that the regulations may prescribe; and
- (h) in respect of any matters that are necessary to carry out the purposes and provisions of this Act.

S.Nu. 2020,c.15,s.142(1),(3).