

# CONSOLIDATION OF OFFICIAL LANGUAGES ACT

S.Nu. 2008,c.10

In force April 1, 2013, except s.12(7)(c): SI-001-2013

s.12(7)(c) in force July 9, 2017: SI-001-2017

(Current to: June 19, 2018)

The following provisions have been deleted for the purposes of this consolidation: s.43 to 47 (Consequential Amendments)

## AS AMENDED BY:

S.Nu. 2009,c.11,s.17-24

s.17-24 in force April 1, 2013: SI-001-2013

**Note: see s.25-28 of S.Nu. 2009,c.11 for transitional provisions.**

S.Nu. 2012,c.21,s.3

s.3 in force November 5, 2012

S.Nu. 2013,c.18,s.13

s.13 in force September 23, 2013

S.Nu. 2015,c.20,s.3

s.3 in force November 5, 2015

**Note: see s.3(5) of S.Nu. 2015,c.20 for transitional provisions.**

S.Nu. 2017,c.5, s.5

s.5 in force April 1, 2017

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

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.

Territorial Printer  
Legislation Division  
Department of Justice  
Government of Nunavut  
P.O. Box 1000, Station 550  
Iqaluit, NU X0A 0H0

Tel.: (867) 975-6305  
Fax: (867) 975-6189  
Email: [Territorial.Printer@gov.nu.ca](mailto:Territorial.Printer@gov.nu.ca)

## 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.

**TABLE OF CONTENTS**

## Preamble

## INTERPRETATION

Definitions	1	
Constitutional rights, including aboriginal rights, paramount	2	(1)
Primacy of Official Language rights		(2)
Act not a limit		(3)

## OFFICIAL LANGUAGES

Official Languages	3	(1)
Status		(2)
Inuinnaqtun		(3)

## LEGISLATIVE ASSEMBLY

Proceedings of Legislative Assembly	4	(1)
Records and journals		(2)
Records and journals in the Inuit Language		(2.1)
Sound recordings		(3)
Acts	5	(1)
Inuktitut versions of bills		(2)
Order to publish Inuit Language translation		(3)
Authoritative Act in the Inuit Language		(4)
Regulations	6	

## NUNAVUT GAZETTE

Publication in <i>Nunavut Gazette</i>	7	(1)
Inuit Language translation		(2)

## ADMINISTRATION OF JUSTICE

Judicial or quasi-judicial proceedings	8	(1)
Language of choice		(2)
Interpretation in civil proceedings		(3)
Interpretation for the public		(4)
Simultaneous or consecutive interpretation		(5)
Decisions, orders and judgments	9	(1)
Public or other grounds		(2)
Delay in issuing translation		(3)
Oral rendition of decision not affected		(4)
Validity not affected		(5)

Rules of Court	10	
<b>COMMUNICATION WITH AND SERVICES TO THE PUBLIC</b>		
Signs and instruments	11	(1)
Duty of administrative head		(2)
Other communication with and services to the public	12	(1)
Head or central service office		(2)
Other offices where significant demand		(3)
Other offices of a territorial institution		(4)
Services likely to promote indigenous language		(5)
Oral and written communications		(6)
Duties of administrative head		(7)
Municipal communications and services		(8)
<b>MANAGEMENT AND ACCOUNTABILITY</b>		
Minister of Languages	13	(1)
Mandate		(2)
Implementation plan		(3)
Minister may direct		(4)
Executive Council oversight		(5)
Independence affirmed		(6)
Official Languages Promotion Fund	13.1	(1)
Purposes		(2)
Credits		(3)
Conditional donations		(4)
Compliance with conditions		(5)
Assignment of authority		(6)
Investments		(7)
Interest and income		(8)
Disbursement		(9)
No deficit		(10)
Fiscal year		(11)
Accounts		(12)
Agreements	14	(1)
Other agreements		(2)
Minister's annual report	15	(1)
Repealed		(2)
Report to address Official Languages Promotion Fund		(2.1)
Tabling report		(3)

## LANGUAGES COMMISSIONER

### Appointment and Duties of the Languages Commissioner

Appointment of Languages Commissioner	16	(1)
Eligibility		(2)
Other qualifications		(2.1)
Oath of Office		(2.2)
Not in public service		(3)
Superannuation		(3.1)
Term of office		(4)
Continuation after expiry		(5)
Resignation	17	(1)
Removal for cause or incapacity		(2)
Suspension		(3)
Acting Languages Commissioner	18	(1)
Term		(2)
Special Languages Commissioner	19	(1)
Term		(2)
Application to special Languages Commissioner	20	
Staff	20.1	(1)
Exception		(1.1)
<i>Public Service Act</i>		(2)
Status of Languages Commissioner		(3)
Engaging assistance	21	(1)
Elders		(2)
Duty of Languages Commissioner	22	(1)
Specific duties		(2)
Authorizing other duties or powers		(3)
Inuit Qaujimajatuqangit	22.1	(1)
Other Inuit societal values		(2)
Immunity from proceedings	23	(1)
Protection respecting libel or slander		(2)
Languages Commissioner's annual report	24	(1)
Tabling annual report		(2)

### Confidentiality and Disclosure of Information

Confidentiality	25	(1)
Necessary disclosure		(2)
Disclosure for proceedings under Act		(3)
Evidence not compellable		(4)
Paramountcy		(5)

## Rules, procedures and forms

Rules, procedures and forms	25.1	(1)
Application of <i>Statutory Instruments Act</i>		(2)

## Investigation

Application for investigation	26	(1)
Languages Commissioner may initiate		(2)
Investigation		(3)
Combining investigations		(4)
Protection for involved persons	27	(1)
Penalty		(2)
Refuse or discontinue investigation	28	(1)
Considerations		(1.1)
Inform affected persons		(2)
Notice and consultation	29	(1)
No hearing as of right		(2)
Non-investigative resolution	30	
Investigation powers and procedure	31	(1)
Summons and disclosure		(2)
Other powers		(3)
Limitation		(4)
Protocol		(5)
Procedure after investigation	32	(1)
Copy to Premier and Minister		(2)
Report and reply		(3)
Investigation report to Legislative Assembly	32.1	(1)
Tabling investigation report		(2)
Inform affected persons	33	
Reports and information final	34	(1)
Use of reports		(2)

ENFORCEMENT IN THE  
NUNAVUT COURT OF JUSTICE

Enforcement application	35	(1)
Limitation period		(2)
Filing after time expired		(3)
Other rights of action		(4)
Languages Commissioner may apply or appear	36	(1)
Applicant may appear		(2)
Capacity to intervene		(3)

## REVIEW OF ACT

Review after five years	37	(1)
Scope of review		(2)

## REGULATIONS AND CONSULTATION

Regulations	38	(1)
Independence affirmed		(2)
Other prerequisites		(3)
Report on development process		(4)
Report on the proposed regulation		(5)
Tabling report		(6)
Consultation register	39	(1)
Use of register		(2)
Public access		(3)

## TRANSITIONAL

Agreements	40	
Languages Commissioner	41	(1)
Property, rights, obligations		(2)
Proceedings in progress	42	
Deleted	43	
Deleted	44	
Deleted	45	
Deleted	46	
Deleted	47	

## REPEAL

Repeal	48	
--------	----	--

## COMMENCEMENT

Coming into force	49	
-------------------	----	--

**OFFICIAL LANGUAGES ACT**

## Preamble

Recognizing that the existence of Inuit in Nunavut from time immemorial, and also their presence elsewhere in the Arctic, constitutes a fundamental characteristic of Canada;

Recognizing that the social unity of Inuit in Nunavut, having a common Inuit Language, and having asserted an aboriginal title based on Inuit traditional and current use and occupation of lands, waters and land-fast ice existing in Nunavut, constitutes Nunavut a distinct society within Canada;

Affirming that, contrary to past practice in which the Inuit Language was legally, socially and culturally subordinated in government and elsewhere, it is desirable that the Inuit Language be recognized as

- (a) the indigenous language of Nunavut,
- (b) the spoken and preferred language of a majority of Nunavummiut,
- (c) a defining characteristic of the history and people of Nunavut, and of the Inuit as a people of the wider circumpolar world, and
- (d) a necessary element in
  - (i) the improvement of Inuit social, economic and cultural well-being, as contemplated by the Nunavut Land Claims Agreement, and
  - (ii) the development of the public service, and of government policies, programs and services, as contemplated by the Nunavut Land Claims Agreement;

Desiring to establish the Inuit Language, English and French as the Official Languages of Nunavut, having equality of status and equal rights and privileges as Official Languages;

Affirming that the Inuit of Nunavut have an inherent right to the use of the Inuit Language in full equality with the other Official Languages, and that positive action is necessary to protect and promote the Inuit Language and Inuit cultural expression, and is consistent with Canada's international undertakings, including the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social and Cultural Rights* and the *Convention on the Protection and Promotion of the Diversity of Cultural Expressions*, proclaimed by the United Nations;

Observing that territorial institutions have an obligation under Article 32 of the Nunavut Land Claims Agreement to design and deliver programs and services that are responsive to the linguistic goals and objectives of Inuit, and that Nunavut and Canada are the government parties obliged to implement and give effect to the land claim rights of Inuit;

Being committed to the protection, promotion and revitalization of the Inuit Language, Inuit identity and Inuit cultural expression in Nunavut;

Desiring to provide in law for the use of the Inuit Language for all or any of the official purposes of Nunavut at the time and in the manner that is appropriate;

Affirming the Speaker's jurisdiction over the privileges and traditions of the Legislative Assembly and the independence of the courts of Nunavut to regulate their own processes consistent with the interests of justice in individual cases;

Determined to advocate for and to achieve the national recognition and constitutional entrenchment of the Inuit Language as a founding and official language of Canada within Nunavut;

Recognizing the heritage, cultural contribution and value of all three Official Language communities in Nunavut and affirming the commitment to

- (a) establish a clear standard of communication and access to government services in the three Official Languages,
- (b) protect and promote the French Language and the vitality of the Francophone community, consistent with the obligations of Nunavut and of Canada, and with their policies as mutually agreed, and
- (c) provide a framework for action on the part of territorial institutions with the goal of ensuring that the Inuit and Francophone communities in Nunavut each have the means necessary to safeguard and strengthen their cultural expression, collective life and heritage for future generations; and

Understanding, because of the fundamental character of the values expressed and the important federal, territorial and Inuit objectives reflected in this Act, that the *Official Languages Act* shall enjoy quasi-constitutional status in law;

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

## INTERPRETATION

### Definitions

1. In this Act,

"administrative head" means

- (a) in relation to a department of the Government of Nunavut, its deputy minister,
- (b) in relation to the Legislative Assembly, the Clerk of the Legislative Assembly,
- (c) in relation to the Nunavut Court of Justice or the Court of Appeal, the Clerk of the Nunavut Court of Justice,
- (d) in relation to a municipality, the senior administrative officer, and

- (e) in relation to a public agency, the chief executive officer or, if there is no chief executive officer, such individual as the Minister may designate in the regulations as administrative head for the purposes of this Act; (*responsable administratif*)

"Inuit Language" means Inuit Language as defined in the *Inuit Language Protection Act*; (*langue inuit*)

"judicial or quasi-judicial body" means the Nunavut Court of Justice, the Court of Appeal and all bodies established by the laws of Nunavut for the exercise of an adjudicative function; (*organisme judiciaire ou quasi judiciaire*)

"Legislative Assembly" means the Legislative Assembly and all of its institutions and offices, but not the constituency offices of Members of the Legislative Assembly; (*Assemblée législative*)

"Management and Services Board" means the Management and Services Board established by the *Legislative Assembly and Executive Council Act*; (*Bureau de régie et des services*)

"Minister" means the Minister of Languages referred to in subsection 13(1), unless a contrary intention appears; (*ministre*)

"Official Languages" means the languages referred to in subsection 3(1); (*langues officielles*)

"public agency" means, unless otherwise provided by regulation, a body that is

- (a) established by the laws of Nunavut,
- (b) subject to the direction of a Minister or the Executive Council, and
- (c) identified as a public agency under subsection 1(1) of the *Financial Administration Act*; (*organisme public*)

"territorial institution" means

- (a) the Government of Nunavut,
- (b) a judicial or quasi-judicial body,
- (c) the Legislative Assembly, and
- (d) a public agency. (*institution territoriale*)

Constitutional rights, including aboriginal rights, paramount

2. (1) Nothing in this Act shall be construed so as to abrogate or derogate from
- (a) the status of or any constitutional or other rights in respect of the English or French languages;
  - (b) any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*, including but not limited to,

- (i) the objectives, rights and obligations affirmed in the Nunavut Land Claims Agreement;
- (ii) any responsibility for implementation that is required to give effect to the Nunavut Land Claims Agreement;
- (c) any legal or customary right or privilege acquired or enjoyed by Inuit with respect to their language, either before or after the coming into force of this Act; or
- (d) any responsibility of the Parliament and Crown of Canada concerning the linguistic or cultural rights or heritage of Inuit or other linguistic minorities in Nunavut.

#### Primacy of Official Language rights

(2) If a provision of section 3, 4, 5, 7, 8, 9, 11 or 12 is inconsistent with or in conflict with a provision of an Act other than the *Human Rights Act*, the provision of this Act prevails.

#### Act not a limit

(3) Nothing in this Act shall be construed so as to prevent a territorial institution or municipality from providing or authorizing language services that exceed the requirements of this Act and the regulations.

## OFFICIAL LANGUAGES

#### Official Languages

**3.** (1) The Inuit Language, English and French are the Official Languages of Nunavut.

#### Status

(2) To the extent and in the manner provided under this Act, the Official Languages of Nunavut have equality of status and equal rights and privileges as to their use in territorial institutions.

#### Inuinnaqtun

(3) In its application to Inuinnaqtun, this Act shall be interpreted and implemented in a manner that is consistent with the need to give priority to

- (a) the revitalization of Inuinnaqtun; and
- (b) improved access to services under sections 8 to 12 in the communities where Inuinnaqtun is indigenous.

## LEGISLATIVE ASSEMBLY

#### Proceedings of Legislative Assembly

**4.** (1) Everyone has the right to use any Official Language in the debates and other proceedings of the Legislative Assembly.

### Records and journals

(2) Records and journals of the Legislative Assembly shall be printed and published in English and French and both versions are equally authoritative.

### Records and journals in the Inuit Language

(2.1) The Speaker, on the recommendation of the Management and Services Board, may

- (a) require that an Inuit Language version of a record or journal of the Legislative Assembly be published; and
- (b) declare authoritative an Inuit Language version of a record or journal of the Legislative Assembly.

### Sound recordings

(3) Copies of the sound recordings of the public debates of the Legislative Assembly, in their original and interpreted versions, shall be provided to any person on reasonable request.

### Acts

**5.** (1) The Acts of the Legislative Assembly shall be made, printed and published in English and French and both versions are equally authoritative.

### Inuktitut versions of bills

(2) An Inuktitut version of a bill must be made available at the time the bill is introduced.

### Order to publish Inuit Language translation

(3) The Commissioner in Executive Council may, by order, require that an Inuit Language version of one or more Acts be published.

### Authoritative Act in the Inuit Language

(4) The Legislative Assembly, on the recommendation of the Executive Council, may, by resolution, designate an Inuit Language version of an Act to be authoritative.

### Regulations

**6.** The Speaker, on the recommendation of the Management and Services Board, may make regulations respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act as the Speaker, on the recommendation of the Management and Services Board, considers necessary to ensure that Legislative Assembly is in compliance with sections 4, 5, 11 and 12, including regulations respecting signage, notices, translation, interpretation, the giving of notice and the duties of the officers and employees of the Legislative Assembly.

## NUNAVUT GAZETTE

Publication in *Nunavut Gazette*

**7.** (1) An instrument required by law to be printed and published in the *Nunavut Gazette* is of no force or effect if it is not printed and published in English and French.

## Inuit Language translation

- (2) The Commissioner in Executive Council may, by order,
- (a) require the publication, in the *Nunavut Gazette*, of an Inuit Language version of one or more instruments required by law to be published in the *Nunavut Gazette*; and
  - (b) provide that an Inuit Language version of one or more instruments required by law to be published in the *Nunavut Gazette* is authoritative.

## ADMINISTRATION OF JUSTICE

## Judicial or quasi-judicial proceedings

**8.** (1) In the proceedings of a judicial or quasi-judicial body, any of the Official Languages may be used by

- (a) any person before, in a pleading in, or in process issuing from the judicial or quasi-judicial body;
- (b) a presiding member of the judicial or quasi-judicial body.

## Language of choice

(2) The rights conferred by subsection (1) apply whether or not the person can understand or communicate in any other language.

## Interpretation in civil proceedings

- (3) A party or witness in civil proceedings is entitled
- (a) to request and receive interpretation services in his or her Official Language of choice,
    - (i) in the manner prescribed by the Nunavut Court of Justice or the Court of Appeal under section 10, or
    - (ii) in the manner prescribed under paragraph 38(1)(c)(i) for a quasi-judicial body; and
  - (b) to be actively notified of this right before having made any request for interpretation.

## Interpretation for the public

(4) A judicial or quasi-judicial body shall cause facilities to be made available for the interpretation of the proceedings, including evidence given and taken, in an Official Language if

- (a) the body considers the proceedings to be of general public interest or importance; or

- (b) the body considers it desirable to do so for the benefit of members of the public attending the proceedings.

#### Simultaneous or consecutive interpretation

(5) The interpretation referred to in this section shall be

- (a) simultaneous, if the interpretation is provided between French and English; and
- (b) consecutive or simultaneous interpretation, if interpretation is provided to support the use of the Inuit Language, as determined by the judicial or quasi-judicial body on considering, in the particular circumstances of the case, which approach is more consistent with the interests of justice and fairness.

#### Decisions, orders and judgments

**9.** (1) Any person before a judicial or quasi-judicial body is entitled to request and receive in the Official Language of his or her choice, a printed or recorded translation of a final decision, order or judgment.

#### Public or other grounds

(2) A final decision, order or judgment issued by a judicial or quasi-judicial body shall be provided with translations in

- (a) the other Official Languages if the decision, order or judgment determines a question of law of general public interest or importance in Nunavut;
- (b) another Official Language if the decision, order or judgment determines a question of law of specific interest or importance affecting the Official Language community in question; or
- (c) another Official Language if the decision, order or judgment determines a question of significant interest or importance for a participant who used that Official Language in the proceedings.

#### Delay in issuing translation

(3) A judicial or quasi-judicial body may provide an Official Language translation of a decision at a reasonable later time if the simultaneous provision of one or more Official Language translations of a final decision, order or judgment under subsection (1) or (2) would occasion a delay

- (a) prejudicial to the public interest; or
- (b) resulting in injustice or hardship to a party to the proceedings.

#### Oral rendition of decision not affected

(4) Nothing in this section shall be construed as prohibiting the oral rendition or provision in only one Official Language of a decision, order, judgment, or reasons if any.

### Validity not affected

(5) Nothing in this section, or in section 8, shall be construed as affecting the validity of a decision, order or judgment to which this Act applies.

### Rules of Court

**10.** To ensure that the Nunavut Court of Justice and the Court of Appeal are in compliance with sections 8, 9, 11 and 12, the Nunavut Court of Justice and the Court of Appeal may, subject to the approval of the Commissioner, make rules respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act or in procedural rules already in force, including rules respecting signage, notices, translation, interpretation and the giving of notice.

## COMMUNICATION WITH AND SERVICES TO THE PUBLIC

### Signs and instruments

**11.** (1) Every territorial institution shall

- (a) display its public signs, if any, in the Official Languages;
- (b) make or issue its instruments in writing directed to or intended for the notice of the public in the Official Languages; and
- (c) ensure that each Official Language version or portion of a sign and each version or portion of an instrument to which this section applies is designed or displayed so as to have an equal prominence, impact or effect with all the other Official Languages used.

### Duty of administrative head

(2) The administrative head of a territorial institution having a duty under subsection (1) shall establish and maintain the operational policies necessary to implement this section.

### Other communication with and services to the public

**12.** (1) A member of the public in Nunavut has the right to communicate with and receive the services of a territorial institution in an Official Language in accordance with this section.

### Head or central service office

(2) Every territorial institution has the duty to ensure that any member of the public in Nunavut can communicate with and receive available services from its head or central service offices in the Official Languages.

### Other offices where significant demand

(3) A territorial institution has the duty described in subsection (2) with respect to its other offices if there is a significant demand for communications with and services from the office in an Official Language as evidenced by any of the following:

- (a) the proportion of the population served by an office who have designated the Official Language as their first or preferred language, and the particular characteristics of that population;

- (b) the volume of communications or services between an office and members of the public using each Official Language.

#### Other offices of a territorial institution

(4) A territorial institution has the duty described in subsection (2) with respect to its other offices if due to the nature of an office it is reasonable that communications with and services from that office be available in an Official Language, as evidenced by any of the following:

- (a) the scope, impact or importance of the services in question for members of the public in a specific community or region, in the territory as a whole or in another geographic area;
- (b) the relevance of the services in question to the health, safety, security of members of the public or to the similarly essential matters prescribed by regulation.

#### Services likely to promote indigenous language

(5) Despite subsections (3) and (4), in the event of special concern about language loss or assimilation, the Commissioner in Executive Council may, by regulation, provide that the duty described in subsection (2) applies to the office of a department of the Government of Nunavut or a public agency on the grounds that its communications or services, or their availability or method of delivery, are likely to have a revitalizing impact on or promote the use of the language indigenous to the affected area or group.

#### Oral and written communications

(6) This section applies to both oral and written communications.

#### Duties of administrative head

(7) The administrative head of a territorial institution having a duty under subsections (2) to (5) shall take appropriate measures consistent with this Act, including posting such signs, providing such notices or taking such other measures as are appropriate

- (a) to provide an active offer of the services in question, making it known to members of the public that they have the right to communicate and receive available services in their Official Language of choice;
- (b) to ensure that the services in question are
  - (i) available to members of the public on request,
  - (ii) delivered with attention to cultural appropriateness and effectiveness, and
  - (iii) of comparable quality;
- (c) to implement this section with respect to its communications and services to the public, including communications or services that are delivered through contract with a third party; and
- (d) to establish and maintain the operational policies necessary to implement this section.

### Municipal communications and services

(8) If there is a significant demand for communications with and services in an Official Language in a municipality, the administrative head of the municipality has the duty to ensure that members of the public entitled to the municipal communications and services prescribed by regulation, can receive them in that Official Language.

## MANAGEMENT AND ACCOUNTABILITY

### Minister of Languages

**13.** (1) The Minister of Languages, appointed by the Commissioner on the advice of the Premier under section 66 of the *Legislative Assembly and Executive Council Act*, is responsible for the administration of this Act and the regulations.

### Mandate

(2) The Minister shall

- (a) promote and advocate the equal status of the Official Languages, and the full realization and exercise of the rights and privileges as to the use of the Official Languages provided in this Act;
- (b) promote the efficient and effective implementation of and compliance with this Act by territorial institutions and municipalities;
- (c) coordinate the implementation, monitoring, management and evaluation of language obligations, policies, programs and services by departments of the Government of Nunavut and public agencies; and
- (d) undertake other duties and functions as required by the Commissioner in Executive Council.

### Implementation plan

(3) The Minister shall, in consultation with territorial institutions and municipalities,

- (a) develop and maintain a comprehensive plan for the implementation of language obligations, policies, programs and services by departments of the Government of Nunavut and public agencies;
- (b) include measures in the plan
  - (i) to evaluate and ensure that members of the public service who make or issue communications or deliver services to the public in an Official Language have an acceptable level of oral and written proficiency and skill,
  - (ii) to designate a sufficient number of staff positions in the public service for the discharge of the obligations and duties set out in this Act,

- (iii) to monitor and evaluate the performance of departments of the Government of Nunavut or public agencies under this Act and the *Inuit Language Protection Act*, including the periodic review or audit of their compliance and effectiveness,
  - (iv) to review the laws of Nunavut and the policies of the Government of Nunavut to ensure their consistency, compliance and effectiveness in implementing and promoting the objectives of this Act and the *Inuit Language Protection Act*, and
  - (v) to develop over time, using an approach with reasonable medium and long-term goals, the terminology, skills and human resources required for the wider use of the Inuit Language and fuller performance of duties in relation to the Inuit Language in contexts relating to the laws and administration of justice in Nunavut;
- (c) involve Inuit in the setting of priorities, development and maintenance of the plan, and the monitoring and evaluation of results from the plan, in a manner consistent with Article 32 of the Nunavut Land Claims Agreement; and
  - (d) involve the English and French language communities and persons or agencies likely to be impacted by the plan during the setting of priorities, development and maintenance of the plan, and the monitoring and evaluation of results from the plan, as it relates to their specific interests.

#### Minister may direct

(4) The Minister may direct the administrative head of a department of the Government of Nunavut, a public agency or a municipality

- (a) to submit an annual or longer-term implementation plan for consideration under subsection (3); and
- (b) to provide the information that the Minister considers necessary to exercise the powers or perform the duties under this section.

#### Executive Council oversight

(5) The Executive Council shall

- (a) approve, reject, vary or refer back to the Minister with directions, the plan developed under subsection (3), and any amendments to the plan that are proposed; and
- (b) receive or require periodic reports from the Minister, or from the administrative head of a department of the Government of Nunavut or a public agency, regarding the performance and implementation of the plan.

### Independence affirmed

(6) In exercising the powers and performing the duties under this section, the Minister shall conform to

- (a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and
  - (b) the independence, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.
- S.Nu. 2009,c.11,s.18.

### Official Languages Promotion Fund

**13.1.** (1) The Official Languages Promotion Fund is established as a special account in the Consolidated Revenue Fund.

### Purposes

- (2) The assets in the fund must be used only to promote the following purposes:
- (a) recognizing and advancing the equal status, rights and privileges of the Official Languages;
  - (b) empowering linguistic and cultural expression in the Official Languages, using all kinds of media;
  - (c) improving Inuit Language literacy and proficiency and reversing language loss and assimilation;
  - (d) developing or revitalizing the Inuit Language and supporting its ongoing use as a language of education, work and daily life in Nunavut;
  - (e) enhancing public, national and international awareness and understanding of this Act, the *Inuit Language Protection Act* and the linguistic and cultural contributions, heritage and aspirations of Nunavummiut;
  - (f) strengthening the vitality of the Francophone and Inuit language communities and creating a positive environment for their cultural expression and collective life in Nunavut.

### Credits

- (3) The following must be credited to the fund:
- (a) money required by court order to be paid into the fund;
  - (b) fines collected under the *Summary Conviction Procedures Act* in relation to any offence under section 27 of this Act or section 33 of the *Inuit Language Protection Act*;
  - (c) donations, bequests and all other payments directed to the fund;
  - (d) a working capital advance to the fund, payable by the Minister from moneys appropriated by the legislature for the purpose.

#### Conditional donations

(4) The Minister may

- (a) accept donations, bequests or payments that are subject to conditions if the conditions are, in the opinion of the Minister, appropriate to the purposes of the fund; or
- (b) may refuse to accept a conditional donation, bequest or payment.

#### Compliance with conditions

(5) Where the Minister accepts a donation, bequest or payment that is subject to conditions, the Minister is bound to comply with those conditions.

#### Assignment of authority

(6) The Minister may assign the persons necessary to assist the Minister in the administration of the fund.

#### Investments

(7) Except as authorized under subsection (9), the Minister shall invest money standing to the credit of the fund in accordance with section 57 of the *Financial Administration Act*.

#### Interest and income

(8) Interest or income earned by the fund accrues to and becomes part of the fund.

#### Disbursement

(9) The fund must be disbursed in the manner prescribed.

#### No deficit

(10) The fund must not incur a deficit balance.

#### Fiscal year

(11) The fiscal year of the fund is the same as for the Government of Nunavut.

#### Accounts

(12) The Minister shall ensure that the following records are maintained separately for the accounts of the fund for each fiscal year:

- (a) complete and accurate financial records of its operations that include the prescribed information;
  - (b) any other prescribed records or information.
- S.Nu. 2009,c.11,s.19.

#### Agreements

**14.** (1) The Minister may enter into agreements with the Government of Canada respecting the promotion and protection of the Official Languages or the Official Language communities in Nunavut and shall promote and protect the Official Languages and the vitality of the Official Language communities in a manner consistent with the obligations of Nunavut and of Canada, and with their policies as mutually agreed.

#### Other agreements

(2) The Minister may enter into agreements with the Government of Canada, or another person or agency, respecting the funding or delivery of programs or services or other matters relating to the implementation or any other aspect of this Act or the regulations.

#### Minister's annual report

**15.** (1) The Minister shall, within 12 months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly and the Languages Commissioner a report that describes

- (a) all the activities, results achieved and use of government resources during the preceding fiscal year in relation to the discharge of language obligations;
- (b) the establishment, operation or performance of policies, programs and services in this regard; and
- (c) the other information that the Minister considers appropriate.

(2) **Repealed, S.Nu. 2009,c.11,s.20.**

#### Report to address Official Languages Promotion Fund

(2.1) The Minister's annual report shall set out an income statement, balance statement and statement of operations of the Official Languages Promotion Fund established by section 13.1.

#### Tabling report

(3) The Speaker shall cause the annual report to be laid before the Legislative Assembly as soon as is reasonably practicable. S.Nu. 2009,c.11,s.20.

## LANGUAGES COMMISSIONER

### Appointment and Duties of the Languages Commissioner

#### Appointment of Languages Commissioner

**16.** (1) The Commissioner, on the recommendation of the Legislative Assembly, shall appoint the Languages Commissioner to exercise the powers and perform the duties set out in this Act.

#### Eligibility

(2) To be eligible for appointment as the Languages Commissioner, an individual must demonstrate an interest in and willingness to respond to

- (a) the concerns, experiences and perspectives of individuals from or representatives of all three Official Language communities; and
- (b) the specific historic, social and cultural contexts in which languages and linguistic rights are to be advanced under this Act.

### Other qualifications

(2.1) The Legislative Assembly may establish additional qualifications or prerequisites to be considered when appointing the Languages Commissioner.

### Oath of office

(2.2) Before undertaking the duties of office, the Languages Commissioner shall take an oath or affirmation of office in the form specified in the *Legislative Assembly and Executive Council Act* for independent officers of the Legislative Assembly.

### Not in public service

(3) The Languages Commissioner is not a member of the public service.

### Superannuation

(3.1) Despite subsection (3), the Languages Commissioner is deemed to be a member of the public service for the purposes of superannuation.

### Term of office

(4) Subject to section 17, the Languages Commissioner holds office during good behaviour for a term of five years.

### Continuation after expiry

(5) The Languages Commissioner continues to hold office after the expiry of the term until reappointed, or until a successor is appointed. S.Nu. 2012,c.21,s.3(2); S.Nu. 2013,c.18,s.13; S.Nu. 2015,c.20,s.3(2).

### Resignation

**17.** (1) The Languages Commissioner may resign at any time by notifying the Speaker in writing or, if the Speaker is absent or unable to act or the office of the Speaker is vacant, by so notifying the Clerk of the Legislative Assembly.

### Removal for cause or incapacity

(2) The Commissioner, on the recommendation of the Legislative Assembly, may, for cause or incapacity, suspend or remove from office the Languages Commissioner.

### Suspension

(3) If the Legislative Assembly is not sitting, the Commissioner, on the recommendation of the Management and Services Board, may suspend the Languages Commissioner for cause or incapacity.

### Acting Languages Commissioner

**18.** (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint an acting Languages Commissioner if

- (a) the Languages Commissioner is temporarily unable to act because of illness or for another reason;
- (b) the office of the Languages Commissioner becomes vacant when the Legislative Assembly is not sitting;

- (c) the Languages Commissioner is suspended when the Legislative Assembly is not sitting; or
- (d) the Languages Commissioner is removed or suspended, or the office of the Languages Commissioner becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly under subsection 16(1) before the end of the sitting.

#### Term

- (2) An acting Languages Commissioner holds office during good behaviour until
  - (a) the Languages Commissioner returns to office after a temporary absence;
  - (b) the suspension of the Languages Commissioner ends; or
  - (c) an individual is appointed under subsection 16(1).

#### Special Languages Commissioner

**19.** (1) The Commissioner, on the recommendation of the Management and Services Board, may appoint a special Languages Commissioner to act in the place of the Languages Commissioner in respect of a particular matter if

- (a) the Languages Commissioner advises the Management and Services Board that he or she should not act in respect of that particular matter due to a conflict of interest or other reasonable cause; or
- (b) the Legislative Assembly directs, or the Nunavut Court of Justice orders, that a special Languages Commissioner should be appointed.

#### Term

(2) A special Languages Commissioner holds office during good behaviour until the conclusion of the matter in respect of which he or she has been appointed.

#### Application to special Languages Commissioner

**20.** Sections 21 to 23, 25 to 34 and 36 apply in the same manner and to the same extent to a special Languages Commissioner exercising the powers and performing the duties of his or her office as to the Languages Commissioner appointed under subsection 16(1).

#### Staff

**20.1.** (1) The Languages Commissioner may appoint, following a competition, such staff as are necessary for the proper conduct of the duties of the Languages Commissioner, despite the *Public Service Act*.

### Exception

(1.1) Despite subsection (1), the Languages Commissioner may appoint staff without a competition with the approval of the Management and Services Board.

### *Public Service Act*

(2) The staff appointed under subsection (1) are members of the public service as defined in the *Public Service Act*.

### Status of Languages Commissioner

(3) For all purposes relating to this section, the Languages Commissioner shall rank as and have all the powers of a deputy head under the *Public Service Act*.

S.Nu. 2015,c.20,s.3(3),(4).

### Engaging assistance

**21.** (1) The Languages Commissioner may engage or retain the services of counsel, experts and other persons that the Languages Commissioner considers necessary to the exercise of the powers and performance of the duties of the Languages Commissioner in all the Official Languages.

### Elders

(2) The Languages Commissioner may consult with or engage Elders for assistance with dispute resolution, or for the purposes relating to Inuit Qaujimajatuqangit in the exercise of the powers and performance of the duties of the Languages Commissioner that the Languages Commissioner considers appropriate.

### Duty of Languages Commissioner

**22.** (1) It is the duty of the Languages Commissioner to take all actions and measures within the authority of the Languages Commissioner to ensure that Official Language rights, status and privileges are recognized, and the duties respecting the Official Languages are performed.

### Specific duties

(2) Without limiting the generality of subsection (1), the duties of the Languages Commissioner include

- (a) investigating whether the requirements of this or any other Act, regulation, policy or procedure concerning the Official Languages have been appropriately performed, and providing reports about the results of the investigation and recommendations, if any;
- (b) developing mediation and other methods consistent with Inuit Qaujimajatuqangit, and using these methods when appropriate to resolve concerns about the performance of legislative, policy or procedural language obligations; and
- (c) commenting on the implementation activities and performance of territorial institutions and municipalities under this Act, and on their compliance with the spirit and intent of this Act.

### Authorizing other duties or powers

(3) The Languages Commissioner shall exercise such other powers and perform such other duties as are assigned to the Languages Commissioner by this and any other Act.

### Inuit Qaujimagatuqangit

**22.1.** (1) The following general principles and concepts of Inuit Qaujimagatuqangit apply in respect of the exercise of the powers and performance of the duties of the Languages Commissioner under sections 20.1, 21, paragraph 22(2)(b), section 30 and subsections 32(1) and (3):

- (a) *Inuuqatigiitsiarniq* (respecting others, relationships and caring for people);
- (b) *Tunnganarniq* (fostering good spirit by being open, welcoming and inclusive);
- (c) *Pijitsirniq* (serving and providing for family or community, or both);
- (d) *Aajiiqatigiinni* (decision-making through discussion and consensus);
- (e) *Piliriqatigiinni* or *Ikajuqtiigiinni* (working together for a common cause);
- (f) *Qanuqtuurniq* (being innovative and resourceful).

### Other Inuit societal values

(2) The Languages Commissioner may, in the exercise of the powers and performance of the duties of the Languages Commissioner, identify, use or incorporate other Inuit societal values that the Languages Commissioner considers to be relevant and beneficial.

### Immunity from proceedings

**23.** (1) No legal action or proceeding may be brought against the Languages Commissioner, or against a person acting on behalf or under the direction of the Languages Commissioner for anything, in good faith, done, omitted, caused, reported or said in the course of the exercise or purported exercise of a power or the performance or purported performance of a duty of the Languages Commissioner.

### Protection respecting libel or slander

- (2) For the purposes of an Act or law respecting libel or slander,
- (a) anything said, all information supplied and all documents and things produced in the course of an investigation, mediation or other proceeding before the Languages Commissioner are privileged to the same extent as if it were a proceeding in court; and
  - (b) a report made by the Languages Commissioner and a fair and accurate account of the report in news media, a periodical publication or broadcast are privileged to the same extent as if the report of the Languages Commissioner were the order of a court.

## Languages Commissioner's annual report

- 24.** (1) The Languages Commissioner shall, within six months after the end of each fiscal year, prepare and submit to the Speaker of the Legislative Assembly an annual report of the conduct of the office and the discharge of the duties of the Languages Commissioner during the preceding year, including
- (a) the appointment and activities of an acting or special Languages Commissioner during the preceding fiscal year;
  - (b) a description of the number and type of applications and requests made under this Act and under the *Inuit Language Protection Act*, the status or resolution of the applications or requests that were active during the preceding fiscal year and information about any instances where recommendations made by the Languages Commissioner after an investigation have not been followed; and
  - (c) an assessment of the effectiveness of the enforcement powers exercised and duties performed by the Languages Commissioner, with any recommended changes that the Languages Commissioner considers necessary or desirable to improve compliance with this Act or the *Inuit Language Protection Act*.

## Tabling annual report

- (2) The Speaker shall cause the annual report to be laid before the Legislative Assembly as soon as is reasonably practicable. S.Nu. 2017,c.5,s.5.

## Confidentiality and Disclosure of Information

## Confidentiality

- 25.** (1) Except as authorized or required by law, the Languages Commissioner and every person acting on behalf or under the direction of the Languages Commissioner shall maintain confidentiality and shall not disclose information received in the performance of his or her duties.

## Necessary disclosure

- (2) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf or under the direction of the Languages Commissioner to disclose, information that the Languages Commissioner considers necessary
- (a) to further an investigation; or
  - (b) to establish grounds for conclusions and recommendations made in a report issued in the course of the exercise of a power or the performance of a duty of the Languages Commissioner.

## Disclosure for proceedings under Act

- (3) Despite subsection (1), the Languages Commissioner may disclose, or authorize a person acting on behalf or under the direction of the Languages Commissioner to disclose, information that the Languages Commissioner or a court

considers necessary in a proceeding under this Act or the *Inuit Language Protection Act*, or an appeal of such proceeding.

#### Evidence not compellable

(4) The Languages Commissioner and any person acting on behalf or under the direction of the Languages Commissioner is not a compellable witness in respect of any information or evidence received in the performance of duties or exercise of powers under this Act, except in a proceeding under this Act or the *Inuit Language Protection Act*, or an appeal of such proceeding.

#### Paramountcy

(5) If there is an inconsistency or conflict between this section and the *Access to Information and Protection of Privacy Act* or the regulations made under that Act, this section prevails to the extent of the inconsistency or conflict.

### Rules, procedures and forms

#### Rules, procedures and forms

**25.1.** (1) Subject to this Act, the Languages Commissioner shall make rules governing the procedures and forms that may be used and the manner in which the powers conferred and duties imposed by this Act will be exercised and performed.

#### Application of *Statutory Instruments Act*

(2) Rules made under subsection (1) are not statutory instruments or regulations within the meaning of the *Statutory Instruments Act*.

### Investigation

#### Application for investigation

**26.** (1) A person may apply to the Languages Commissioner orally, or in another form that the Languages Commissioner considers to be satisfactory, for the investigation of concerns that, in the administration of the affairs of a territorial institution or municipality,

- (a) the status of an Official Language has not been recognized;
- (b) a provision of this or any other Act or regulation relating to the status, use or protection of an Official Language has not been complied with; or
- (c) the spirit and intent of this Act or the *Inuit Language Protection Act* has not been fulfilled.

#### Languages Commissioner may initiate

(2) On the Languages Commissioner's own initiative, or at the request of a territorial institution, a municipality or a member or committee of the Legislative Assembly, the Languages Commissioner may commence an investigation on the grounds for concern referred to in subsection (1).

### Investigation

(3) On receipt of an application or request made under this section, the Languages Commissioner shall evaluate the concerns and, subject to subsection 28(1), shall investigate.

### Combining investigations

(4) The Languages Commissioner may conduct a single investigation of two or more applications or requests, if he or she is satisfied that it is fair and reasonable in the circumstances to do so.

### Protection for involved persons

**27.** (1) No person shall discharge, suspend, expel, intimidate, coerce, evict, impose a pecuniary or other penalty on or otherwise discriminate against a person because that person applies for or requests an investigation, gives evidence or assists in an investigation, inquiry or reporting of a concern to the Languages Commissioner.

### Penalty

(2) Every person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction,

- (a) if an individual, to a fine not exceeding \$5,000; and
- (b) if a body corporate or another body with legal capacity, to a fine not exceeding \$25,000.

### Refuse or discontinue investigation

**28.** (1) The Languages Commissioner may refuse to investigate or may discontinue an investigation if, in the opinion of the Languages Commissioner, any of the following situations exist:

- (a) the concerns identified primarily affect an individual or individuals other than the applicant or party requesting an investigation, and the directly affected individual or individuals do not wish to proceed;
- (b) all or part of the concerns identified in the application or request may be dealt with and remedied, adequately and appropriately, under another Act or using another available procedure;
- (c) the application or request is frivolous, vexatious, not made in good faith or concerns a trivial matter;
- (d) the applicant or party requesting an investigation has withdrawn or abandoned the application or request;
- (e) the concerns identified in the application or request have been resolved.

### Considerations

(1.1) Before making a determination under subsection (1), the Languages Commissioner shall consider all relevant circumstances, including the possibility that a directly affected individual, an applicant or a party who requested the investigation may be reluctant to proceed or an application or request may have been withdrawn, abandoned or represented as having been resolved because of an abuse or imbalance of power.

### Inform affected persons

(2) If the Languages Commissioner refuses to investigate or discontinues an investigation under subsection (1), the Languages Commissioner shall

- (a) inform the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate of that decision at a time and in a manner that the Languages Commissioner considers appropriate; and
- (b) provide a written confirmation to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate
  - (i) that the Languages Commissioner has refused to investigate or has discontinued an investigation under subsection (1), and
  - (ii) the date when the information required by paragraph (a) was provided.

### Notice and consultation

**29.** (1) If the Languages Commissioner decides to investigate, the Languages Commissioner shall,

- (a) before commencing the investigation,
  - (i) notify the Minister, the administrative head of the territorial institution or municipality affected and any other person the Languages Commissioner considers appropriate to notify in the circumstances, and
  - (ii) consult with the administrative head of the territorial institution or municipality affected and with any other person the Languages Commissioner considers appropriate, to attempt to resolve the concerns raised or for any other purpose; and
- (b) before making a report or recommendation that may adversely affect a person, territorial institution or municipality, consult with that person, territorial institution or municipality.

### No hearing as of right

(2) The Languages Commissioner is not required to hold a hearing and no person is entitled to be heard by the Languages Commissioner except as provided in this Act.

### Non-investigative resolution

**30.** The Languages Commissioner may recommend or use mediation and other means consistent with Inuit Qaujimajatuqangit in attempting to resolve concerns identified in an application or request made under subsection 26(1) or (2).

### Investigation powers and procedure

**31.** (1) Except as provided in this section, the Languages Commissioner may, during an investigation, request and obtain information from the persons and in the manner the Languages Commissioner considers appropriate, and may take one or more of the following actions without being bound by the rules of evidence or proceedings in civil cases:

- (a) enter and inspect premises occupied by a territorial institution or municipality at any reasonable time;
- (b) make the inquiries while in those premises that Languages Commissioner considers appropriate, including talking in private with any individual on a voluntary basis;
- (c) request and examine information, records and objects, make or require copies or take photographs that the Languages Commissioner considers relevant to the concerns under investigation;
- (d) accept or exclude any information or evidence as the Languages Commissioner considers appropriate, whether or not it would be admissible or excluded in a civil case.

### Summons and disclosure

(2) Subject to giving reasonable notice, the Languages Commissioner may in the course of an investigation

- (a) summon and enforce the appearance of a person as a witness;
- (b) administer oaths and affirmations;
- (c) compel a person to give evidence on oath or affirmation, including by way of an affidavit, at a time and place the Languages Commissioner specifies; and
- (d) compel a person to produce documents and things in the person's possession or control that the Languages Commissioner considers relevant to the concerns under investigation, at a time and place the Languages Commissioner specifies.

### Other powers

(3) In exercising the powers under subsections (1) and (2), the Languages Commissioner has the same powers and duties as are vested in a court of law in civil cases.

### Limitation

(4) The exercise of the Languages Commissioner's powers under this section is limited by and shall conform to

- (a) the rights, immunities, privileges and powers of the Legislative Assembly and its members; and
- (b) the independence, duties, privileges and powers of the Nunavut Court of Justice and the Court of Appeal.

#### Protocol

(5) The Languages Commissioner shall establish and adhere to a protocol with the Speaker of the Legislative Assembly on behalf of the Legislative Assembly and its members, and with the Nunavut Court of Justice and the Court of Appeal, regarding the Languages Commissioner's exercise of powers and performance of duties under this section.

#### Procedure after investigation

**32.** (1) If, after carrying out an investigation, the Languages Commissioner is of the opinion that a matter should be referred to a territorial institution or municipality for consideration or action, the Languages Commissioner shall prepare and submit a report of that opinion and the reasons for it to the administrative head of the territorial institution or municipality in question.

#### Copy to Premier and Minister

(2) If the territorial institution referred to in subsection (1) is a department of the Government of Nunavut or a public agency, the Languages Commissioner shall submit a copy of his or her report and reasons to the Premier and to the Minister responsible for the department or public agency.

#### Report and reply

(3) In a report under subsection (1), the Languages Commissioner may make the recommendations that he or she considers appropriate, and may request that the administrative head of the territorial institution or municipality in question reply to the recommendations of the Languages Commissioner within a specified time indicating

- (a) the action that has been or is proposed to be taken to give effect to the recommendations; and
- (b) if no action has been or is proposed to be taken, the reasons for not following that recommendation.

#### Investigation report to Legislative Assembly

**32.1.** (1) If no action is taken that the Languages Commissioner considers adequate or appropriate within a reasonable time after a report is submitted under subsection 32(1) or (2), the Languages Commissioner may prepare and submit an investigation report to the Speaker of the Legislative Assembly.

#### Tabling investigation report

(2) The Speaker shall cause the investigation report to be laid before the Legislative Assembly as soon as is reasonably practicable.

## Inform affected persons

- 33.** The Languages Commissioner shall in every case
- (a) at a time and in a manner that the Languages Commissioner considers appropriate and consistent with section 25, inform the applicant or party who requested the investigation, and such other affected persons as the Languages Commissioner considers appropriate, of the result of the investigation, the recommendations made and the actions taken or proposed; and
  - (b) confirm in writing to the applicant or party who requested the investigation and such other affected persons as the Languages Commissioner considers appropriate
    - (i) that the Languages Commissioner has concluded the investigation, and
    - (ii) the date when the information required by paragraph (a) was provided.

## Reports and information final

- 34.** (1) Reports and information provided by the Languages Commissioner under this Act are not subject to appeal or to review by a court.

## Use of reports

(2) Despite subsection (1), if an application is filed under subsection 35(1) or paragraph 36(1)(a), a report purported to be provided by the Languages Commissioner under this Act is admissible in evidence as proof, in the absence of evidence to the contrary, of the contents of the report and that the Languages Commissioner provided the report.

## ENFORCEMENT IN THE NUNAVUT COURT OF JUSTICE

## Enforcement application

- 35.** (1) An application may be made to the Nunavut Court of Justice for a remedy that the Court considers appropriate and just in the circumstances by a person who has applied to the Languages Commissioner under subsection 26(1), by a territorial institution, a municipality or member or committee of the Legislative Assembly that has requested the investigation under subsection 26(2) or by an individual directly affected by an application or request made under subsection 26(1) or (2), if
- (a) the Language Commissioner has refused or discontinued an investigation under subsection 28(1);
  - (b) the Languages Commissioner has informed the applicant or party who requested the investigation of the results of the investigation as required by paragraph 33(a); or
  - (c) more than six months have passed since the day the application or request was made and the applicant or party who requested the investigation has not been informed that the investigation has been refused or discontinued or of any results of the investigation.

### Limitation period

- (2) Subject to subsection (3), an application may not be made under subsection (1)
- (a) more than six months after the day on which the applicant or party who requested the investigation
    - (i) is informed, under subsection 28(2), of the Languages Commissioner's decision to refuse or discontinue an investigation; or
    - (ii) is informed of the results of investigation as required by paragraph 33(a); or
  - (b) more than one year after the date of the initial application or request made under subsection 26(1) or (2), if the applicant or party who requested the investigation has not received the information referred to in paragraph (a) after the expiry of six months.

### Filing after time expired

- (3) The Nunavut Court of Justice may accept an application filed after the expiration of the time limits referred to in subsection (2) if the Court determines that
- (a) the delay in filing was incurred in good faith; and
  - (b) the refusal to waive a time limit would result in a greater adverse impact on the applicant, as compared to the prejudice, if any, experienced by any other person as the result of the delay.

### Other rights of action

(4) Nothing in this section abrogates or derogates from any right of action a person might have other than the right of action set out in this section.

### Languages Commissioner may apply or appear

- 36.** (1) The Languages Commissioner may
- (a) apply to the Nunavut Court of Justice for a remedy within the time limits established by paragraph 35(2)(a) only after
    - (i) submitting the report under subsection 32.1(1), and
    - (ii) obtaining, in writing, the consent of an applicant or party who requested the related investigation;
  - (b) appear before the Nunavut Court of Justice on behalf of a person who has applied under subsection 35(1) for a remedy; or
  - (c) with leave of the Nunavut Court of Justice, appear as a party to a proceeding under subsection 35(1).

### Applicant may appear

(2) If the Languages Commissioner makes an application under paragraph (1)(a), an applicant or party who requested the investigation may appear as a party in the proceedings.

### Capacity to intervene

(3) Nothing in this section affects the capacity of the Languages Commissioner to seek leave to intervene in any legal proceedings relating to the status or use of the Inuit Language, English or French. S.Nu. 2009,c.11,s.22.

## REVIEW OF ACT

### Review after five years

**37.** (1) After every five years of operation, commencing with a first review in the year following September 18, 2014, or such earlier time after this Act comes into force as the Legislative Assembly may direct, the Legislative Assembly or a committee of the Legislative Assembly shall review the provisions and operation of this Act, and such other legislation, policies, guidelines, plans or directives as the Legislative Assembly or committee of the Legislative Assembly may direct.

### Scope of review

(2) The review shall include an examination of the administration and implementation of this Act, the effectiveness of its provisions and the achievement of its objectives and may include recommendations for changes to this Act. S.Nu. 2009,c.11,s.23.

## REGULATIONS AND CONSULTATION

### Regulations

**38.** (1) The Commissioner in Executive Council, on being satisfied that the requirements of Article 32 of the Nunavut Land Claims Agreement have been fulfilled and that appropriate consultation has occurred with representatives of the English and French language communities, may make regulations

- (a) designating the administrative head of a public agency referred to in the definition "administrative head" in section 1;
- (b) excluding a public agency under section 1, where the public agency is established for purposes relating primarily to the heritage, cultural expression, strengthening or promotion of a single language or language community;
- (c) respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act, including regulations respecting the giving of notice, that the Commissioner in Executive Council considers necessary to implement or effect compliance with sections 8, 9, 11 and 12
  - (i) by one or more judicial or quasi-judicial bodies, other than the Nunavut Court of Justice and Court of Appeal, or
  - (ii) in one or more types or forms of proceeding or decision;
- (d) respecting any aspect, measure, method or requirement applicable to a department of the Government of Nunavut or public agency that the Commissioner in Executive Council considers necessary to implement or effect compliance with subsection 11(1), concerning

- (i) the display or format of signage, or
- (ii) the making, issuing or format of instruments;
- (e) identifying the territorial institutions and offices referred to in subsections 12(3) to (5), including by a group or class of office or service;
- (f) respecting evidence or criteria to be considered when assessing significant demand for the purposes of subsection 12(3);
- (g) respecting any aspect, measure, method or requirement, including matters relating to the requirement for an active offer of services, that the Commissioner in Executive Council considers necessary to coordinate, implement or effect compliance on the part of an administrative head with section 12(7);
- (h) identifying a municipality referred to in subsection 12(8) or setting out the evidence or criteria to be considered in determining whether subsection 12(8) applies to a municipality;
- (h.1) respecting the municipal communications and services to be provided when subsection 12(8) applies to a municipality;
- (h.2) respecting any aspect, measure, method or requirement not fully or sufficiently provided for in this Act, that the Commissioner in Executive Council considers necessary to implement or effect compliance with subsection 12(8);
- (i) respecting any matter the Commissioner in Executive Council considers necessary to implement or effect compliance with this Act under section 13, including additional matters to be addressed in the implementation plans referred to in subsection 13(3) or the implementation plans and information referred to in subsection 13(4);
- (i.1) governing disbursements from the Official Languages Promotion Fund, including establishing advisory committees and providing for their advisory and governance functions;
- (i.2) prescribing information and records for the purposes of subsection 13.1(2);
- (j) respecting the establishment and maintenance of a register of persons or organizations under section 39; and
- (k) respecting any matter the Commissioner in Executive Council considers necessary to carry out the purposes and provisions of this Act.

#### Independence affirmed

(2) This section does not empower the Commissioner in Executive Council to make regulations respecting the Legislative Assembly, the Nunavut Court of Justice or the Court of Appeal.

#### Other prerequisites

(3) At least four months before a regulation is made by the Commissioner in Executive Council under subsection (1),

- (a) the proposed regulation shall be published in the *Nunavut Gazette*, together with an Inuit Language translation and information about the manner in which interested persons may comment on the proposed regulation;
- (b) a notice of the proposed regulation, stating where a copy of it and an Inuit Language translation of it may be obtained and information about the manner in which interested persons may comment on the proposed regulation, shall be published in at least one newspaper of general circulation in Nunavut; and
- (c) the Minister shall notify the Speaker and Nunavut Tunngavik Incorporated, as well as the representatives of the English and French language communities, if any, that a proposed regulation has been published as required by paragraph (a).

#### Report on development process

(4) To support the determination required in subsection (1), the Minister shall provide a report to the Commissioner in Executive Council, summarizing the measures undertaken to request and obtain public or other input about the regulation, the Minister's manner of compliance with Article 32 of the Nunavut Land Claims Agreement and whether or in what manner the regulation proposed responds to the issues raised during consultation about the regulation and under this section.

#### Report on the proposed regulation

(5) The Minister shall submit the report referred to in subsection (4) to the Speaker of the Legislative Assembly.

#### Tabling report

(6) The Speaker shall cause the report to be laid before the Legislative Assembly as soon as is reasonably practicable. S.Nu. 2009,c.11,s.24.

#### Consultation register

**39.** (1) The Minister shall establish and maintain, in accordance with the regulations, a register of persons or organizations to be consulted in relation to

- (a) section 38; or
- (b) consultation or collaborative work required for any other purpose by this Act.

#### Use of register

(2) The Minister shall consult with every person or organization duly entered in the register for the purposes prescribed by the regulations.

**Public access**

(3) A person may inspect the register by attending at the prescribed office during regular government business hours, and requesting that the register be produced for inspection.

**TRANSITIONAL****Agreements**

**40.** Agreements made on behalf of the Government of Nunavut and in force on the day this Act comes into force respecting the funding or delivery of programs or services or other matters relating to the implementation of language obligations, shall continue in force according to their terms, and the Government of Nunavut shall have all the same rights, obligations and liabilities in the same manner and to the same extent as existed immediately before this Act came into force.

**Languages Commissioner**

**41.** (1) The individual holding office as Languages Commissioner on the day this Act comes into force shall continue to hold that office as if appointed under subsection 16(1), but with an initial term of office expiring on the day that his or her prior appointment as Languages Commissioner would have expired.

**Property, rights, obligations**

(2) Except as otherwise stated in this Act, the Languages Commissioner shall have all the property, rights, obligations and liabilities of the Languages Commissioner as they existed immediately before this Act came into force.

**Proceedings in progress**

**42.** Proceedings in which the Languages Commissioner is a party when this Act comes into force may be continued by or against the Languages Commissioner in the same manner and to the same extent as could have been done by or against the Languages Commissioner immediately before this Act came into force.

**Note**

**The following provisions have been deleted for the purposes of this consolidation:  
s.43 to 47 (Consequential Amendments)**

**REPEAL****Repeal**

**48.** The *Official Languages Act, R.S.N.W.T. 1988, c.O-1*, as duplicated for Nunavut by section 29 of the *Nunavut Act (Canada)*, is repealed.

## COMMENCEMENT

### **Coming into force**

**49. This Act or any portion of this Act comes into force on a day or days to be fixed by order of the Commissioner.**